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PORT OF SAN FRANCISCO

NOTICE OF CANCELLATION

THE REGULAR PORT COMMISSION MEETING SCHEDULED FOR
TUESDAY, APRIL 8, 1997 AT 4:00 P.M.
IS HEREBY CANCELLED

♦ • ♦ • ♦ • ♦

THE NEXT REGULAR PORT COMMISSION MEETING
IS SCHEDULED FOR

TUESDAY, APRIL 22, 1997 at 4:00 p.m.

in the Port Commission Room
Suite 3100, Ferry Building
San Francisco, CA 94111
(415) 274-0406

DISABILITY ACCESS

The Port Commission office is located on the third floor of the Ferry Building, Suite 3100. The Port office is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) will be available. The closest accessible BART station is Embarcadero Station located at Market and Steuart Streets. The closest accessible MUNI Metro station is Embarcadero station located at Market and Spear Streets. Accessible MUNI lines serving the Ferry Building are the 9, 31, 32 and 71. For more information about MUNI accessible services, call 923-6142.

There is accessible parking at the Ferry Building and at the public lot in the Embarcadero median in front of the Ferry Building. Assistive listening devices are available for use in the Port Commission Meeting.

The following services are available on request 72 hours prior to the meeting. Please contact Kevin Jensen at (415) 274-0555. Late requests will be honored if possible.

- American Sign Language Interpreters
- A Sound Enhancement System
- Large Print of the Agenda
- The use of a reader during the meeting
- Minutes of the Meeting in Alternative Formats

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

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SAN FRANCISCO
PORT COMMISSION

REGULAR MEETING

4:00 P.M., APRIL 22, 1997
FERRY BUILDING, SUITE 3100
SAN FRANCISCO, CALIFORNIA

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AGENDA

1. **ROLL CALL**

2. **APPROVAL OF MINUTES** - March 25, 1997 Meeting

3. **EXECUTIVE**

   A. Executive Director's Report

   B. Commendation for Commissioner Preston Cook. (Resolution No. 97-34)

4. **MARITIME**

   A. Authorization to initiate the process to extend the Foreign Trade Zone by creating a subzone at Chevron Shipping Corporation's Long Wharf located at Richmond, CA (Resolution No. 97-33)

5. **REAL ESTATE AND ASSET MANAGEMENT**

   A. Approval for the Executive Director to enter into Permit to Enter with Catellus Development Corporation and/or its agent, for Environmental and Geotechnical Investigations of Port property located at Mission Bay. (Resolution No. 97-32)

6. **FACILITIES & OPERATIONS**

   A. Authorization to award Contract No. 2636, "Pier 48 fire damage repair and reconstruction." (Resolution No. 97-29)

   B. Approval of First Amendment, authorizing additional design services for Professional Services Contract No. SA 39760016, "New Maintenance Facility," with Kendall Young Associates/Beverly Prior Architects, a Joint Venture. (Resolution No. 97-26)

   C. Authorization to award the professional services contract for as-needed "Soil and Groundwater Characterization and Management Services" to Tetra Tech, Inc. (Resolution No. 97-30)

D. Approval of a First Amendment, authorizing additional design services for Professional Services Contract No. SA3960018, "Pier 52 Public Boat Ramp, Bait Shop & Cafe and Public Access," with Arcus Architecture & Planning. (Resolution No. 97-31)

7. PLANNING & DEVELOPMENT

A. Informational presentation on the Pier 52 boat launch project.

8. FINANCE AND ADMINISTRATION

A. Authorization to enter into an Expense Reimbursement Agreement with China Basin Ballpark Company, and appropriation to pay expenses up to $477,000. (Resolution No. 97-25)

B. Approval of 1997/98 Executive Director Compensation. (Resolution No. 97-27)

C. Approval of Revisions to FY 1997/98 Operating Budget. (Resolution No. 97-28)

9. CONSENT CALENDAR

10. NEW BUSINESS / PUBLIC COMMENT

11. EXECUTIVE SESSION

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Douglas F. Wong, Executive Director
*San Francisco Giants Representative: Larry Baer, Executive Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both
An executive session has been calendared to discuss real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark.

This is specifically authorized under California Government Code Section 54956.8.

B. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

1) Property: Port property located at Pier 80
Person Negotiating: Port representative: Douglas F. Wong, Executive Director
*NorCal Representative: Mike Sangiacomo, President and Don Moriel, Executive Vice President

2 45226 SFPL: ECONO JRS
107 SFPL 06/16/00 42

Under Negotiation: ____ Price ____ Terms of Payment __✓ Both
An executive session has been calendared to discuss real property negotiations between the Port and NorCal, regarding the property located at Pier 80.

This is specifically authorized under California Government Code Section 54956.8.

C. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

1) Property: Port property located at Mission Bay bordered by Illinois Street and Terry Francois Blvd. and Mission Rock Street
Person Negotiating: Port representative: V. Fei Tsen, Director of Real Estate and Asset Management
*Catellus Representative: Doug Stimpson, Vice President and CFO, Bay Area Development

Under Negotiation: ____ Price ____ Terms of Payment __✓ Both
An executive session has been calendared to discuss real property negotiations between the Port and Catellus, regarding the property located at Mission Bay.

This is specifically authorized under California Government Code Section 54956.8.

D. CONFERENCE WITH LEGAL COUNSEL REGARDING ANTICIPATED AND EXISTING LITIGATION MATTERS:

1) Initiation of Litigation pursuant to subdivision (c) of California Government Code Section 54956.9 (1 case)

(a) Red and White Fleet, Inc. (formerly Harbor Carriers, Inc., a subsidiary of Crowley Corporation) operating at Pier 41.

2) Discuss significant exposure to litigation pursuant to subdivision (b) of California Government Code Section 54956.9 (1 case).

E. Vote in open session on whether to disclose Executive Session discussions (S.F. Admin. Code Sec. 67.14)

12. ADJOURNMENT

Public comment is permitted on any matter within Port jurisdiction, and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. Please fill out a speaker card and hand it to the Commission Secretary. If you have any questions regarding the agenda, please contact the Commission Secretary at 274-0406

PORT OF SAN FRANCISCO

MEMORANDUM

April 16, 1997

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie G. Lee
Hon. Preston Cook
Hon. James Herman

FROM: Douglas Wong, Executive Director

SUBJECT: Resolution Awarding Commissioner Preston Cook the Order of Maritime Merit, with the Rank of Commander.

DIRECTOR'S RECOMMENDATION: APPROVE THE AWARD

Commissioner Preston Cook has served with distinction on the San Francisco Port Commission since his appointment in 1993, including two years as president.

The Port Commission has benefited greatly from his previous experience as a consultant for the California Senate Select Committee on the Maritime Industry and as a field representative for Senator Milton Marks. The Port has also greatly benefited from his business experience and acumen as a principal at TRI Realtors.

He has provided the Commission with a strong strategic direction and knowledge at a critical juncture in the Port's history that resulted in a revitalized commercial energy and significant improvements in the Port's financial position.

The Port Commission does hereby express its appreciation, best wishes and sincerest gratitude to Commissioner Preston Cook. To honor him for invaluable, unselfish and lasting contributions to the Port Commission and the waterfront community, staff recommends that he be awarded the Order of Maritime Merit, with the rank of Commander.

Prepared by: Peter Dailey, Acting Maritime Director

THIS PRINT COVERS CALENDAR ITEM NO. 3B

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-34

WHEREAS, Preston Cook has served with distinction on the San Francisco Port Commission since his appointment in 1993; and

WHEREAS, The Port Commission has benefited greatly from his experience both as a consultant for the California Senate Committee on the Maritime Industry and more recently as a principal at TRI Realtors; and

WHEREAS, He has provided the Commission with a strong strategic vision and knowledge at a critical juncture in the Port's history that resulted in a revitalized commercial energy and significant improvement in the Port's financial position; and

WHEREAS, The San Francisco Port Commission recognizes Commissioner Preston Cook's invaluable, unselfish and lasting contribution to the Port Commission by conferring upon him the Order of Maritime Merit, with the rank of Commander.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 22, 1997

_____
Secretary

MEMORANDUM

PORT OF SAN FRANCISCO

April 10, 1997

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Frankie G. Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: AUTHORIZE THE EXECUTIVE DIRECTOR TO SUBMIT A SUBZONE APPLICATION FOR CHEVRON U.S.A. INC. TO THE FOREIGN-TRADE ZONES BOARD.

DIRECTOR'S RECOMMENDATION: Authorize the Executive Director to submit a Subzone Application for Chevron U.S.A. Inc. to the Foreign-Trade Zones Board.

Foreign-trade zones were established by the U.S. Congress in 1934 to stimulate economic development in communities by providing businesses with facilities for conducting international trade activities. Designation as a foreign-trade zone is granted by the Foreign Trade Zones Board within the U.S. Department of Commerce. Zones must be operated as a public utility and applications are granted to state or local government entities, port or airport authorities, economic development agencies and not-for-profit corporations.

The Port of San Francisco, on March 10, 1948, received a Grant of Authority to establish, operate and maintain a foreign trade zone in San Francisco. As grantee for the Foreign-Trade Zone No. 3, the Port has been asked by Chevron Products Company, whose headquarters is in San Francisco, to sponsor a Foreign-Trade Subzone application for Chevron's Richmond, Ca. refinery to the Foreign Trade Zone's Board in Washington D.C. "Subzones" are a special purpose type ancillary zone authorized by the Foreign Trade Board, through grantees of public zones, such as the Port of San Francisco, for operations that cannot be accommodated within an existing zone when it can be demonstrated that the activity will result in a significant public benefit. Chevron has several subzones established in the U.S., including Hawaii and Los Angeles, where they refine, blend, store and transfer petroleum and petroleum derivatives and other related products and ship intermediate and finished products for export and domestic market

consumption. The Bay Area subzone will be used for the same purpose and in doing so, will allow Chevron to realized economic benefits through tariff savings on the refining process, deferred duty for products in storage and duty elimination for exported products.

Such benefits will increase Chevron's competitiveness with its foreign competitors and domestic refiners who already have or are pursuing subzone status. Operating under subzone status will strengthen Chevron economically while furthering efforts to retain and potentially expand local jobs, thereby benefiting the local Bay Area economy. There are over 1,460 full-time refinery employees with additional staff located at Chevron's headquarters in San Francisco, California.

Foreign or domestic merchandise may enter a foreign trade zone without a formal Customs entry or the payment of Custom duties or government excise taxes. While in the zone, merchandise may be sampled, relabeled, repackaged, assembled, processed or manufactured. If the final product is exported from the United States, no U.S. Customs duty or excise tax is levied. If, however, the final product is imported into the United States, Customs duty and excise taxes are due only at the time of transfer from the foreign-trade zone and formal entry in the U.S. The duty paid is the lower of that applicable to the product itself or its component parts. Thus, zones provide opportunities to realize customs duty savings by zone users.

All legal documents, applications, and administrative reports pertaining to this sub-zone application will be prepared by Chevron at their expense. All costs associated with running and managing the zone will be assumed by Chevron. As grantee, the Port of San Francisco will receive an annual fee of $5,000, which is in accordance with Foreign Trade Zone Board's rules and regulations which state that fees charged by the grantee should be "the value of actual services rendered by the zone grantee or operator and reasonable out-of-pocket expenses."

Prepared by: Peter Dailey, Acting Director of Maritime

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-33

WHEREAS, the Port of San Francisco, on March 10, 1948, received a Grant of Authority to Establish, Operate and Maintain Foreign-Trade Zone 3 in San Francisco, California;

WHEREAS, Foreign Trade Zones were established to stimulate economic development in communities by providing businesses with facilities for conducting international trade;

WHEREAS, Chevron U.S.A. Inc., who employs more than 1,460 people in their Richmond, Ca. refinery on a full-time basis with additional staff at their headquarters in San Francisco, desires to have their refinery facility in Richmond, California designated as a Subzone Site of FTZ 3;

WHEREAS, Chevron U.S.A. Inc. refines, blends, stores and transfers petroleum and petroleum derivatives and other related products and the subzone will ship intermediate and finished products for export and domestic market consumption;

WHEREAS, Chevron U.S.A. Inc., a San Francisco based company, will realize economic benefits through "inverted tariff" savings on the refining process, deferred duty for products in storage and duty elimination for exported products which will benefit the region through a overall enhancement of the local economy while furthering efforts to retain and potentially expand local jobs and further increase the balance of trade: now, therefore, be it

RESOLVED, that the San Francisco Port Commission duly authorizes its Executive Director to submit a Subzone Application for Chevron USA Inc. to the Foreign-Trade Zone Board in Washington D.C.; and to take such further action, in consultation with the city Attorney, as is required by the Foreign Trade Zone Board to accept and process the Subzone Application.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 22, 1997

_____

Secretary

PORT OF SAN FRANCISCO

MEMORANDUM

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

April 17, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie G. Lee
Hon. Preston Cook
Hon. James Herman

FROM: Douglas F. Wong
Executive Director

SUBJECT: Approval for the Executive Director to Enter into Permit to Enter for with Catellus Development Corporation and/or its agent, for Environmental and Geotechnical Investigations of Port Property located at Mission Bay

DIRECTOR'S RECOMMENDATION: APPROVE RESOLUTION

The Port and Catellus Development Corporation ("Catellus") are parties to the Port Land Transfer Agreement ("PLTA"), dated as of September 8, 1983. Under the PLTA, the Port agreed to transfer certain Port lands to Catellus in exchange for, among other things, the Western Pacific site located adjacent to Pier 80. Although Catellus terminated the Mission Bay Development Agreement in early 1996, the PLTA remains in effect. Catellus has expressed an interest in proceeding with the transfer under the PLTA. Under the PLTA, Catellus has the obligation to accept the Port property "as is," and to remediate the property to comply with applicable standards for the proposed uses.

Catellus desires to conduct geotechnical and environmental studies of Port and City property located within the Mission Bay area, as shown on the attached diagram. These investigations are intended to assist Catellus in determining the environmental condition of the property to assess Catellus' potential remediation obligations.

The Regional Water Quality Control Board ("RWQCB") is the state agency with jurisdiction over water quality issues, and would be the agency most involved with signing

off on the investigation and remediation process. The RWQCB has expressed a great deal of interest in the Mission Bay site and supports Catellus' investigation program. The RWQCB has stated an intent to pursue various oil companies to locate responsibility for certain pipelines located on Port property within Mission Bay that could be a possible source of contamination. Catellus has requested the Port to assign to Catellus any rights the Port may have against these oil companies, or others, for investigation and remediation costs, in the event the land transfer occurs under the PLTA. Port staff believes that providing these permits is necessary for the Port land transfer to occur.

The Port has used a form of entry permit in the past that requires a broad indemnity, including coverage for damage to utilities and hazardous material investigations or remediation efforts mandated by other governmental agencies regardless of the fault or negligence of the permittee. In this case, the indemnity is limited in several respects. This is largely because Catellus has advised the Port that insurance is not available for such risks, particularly liability for pre-existing toxics due to no fault of Catellus or its agents. If Catellus decides not to proceed with the land transfer, or to accept only certain parcels of the Port transfer parcels, the Port will remain liable for the environmental condition of its property. The Port will bear ultimate responsibility for remediation of the property consistent with the RWQCB's (or other applicable agency's) requirements if other responsible parties are not identified or fail to respond to requests or orders from applicable environmental agencies.

Catellus has expressed a strong commitment in proceeding with the land transfers, as set forth in the Mayor's March 3, 1997 letter to Catellus summarizing the Mission Bay South principles of agreement (copy on file with the Secretary of the Port Commission for this item). The PLTA provides that Catellus will assume environmental remediation responsibilities upon transfer of the property to Catellus.

The proposed Entry Permit for the Port will be in the same form as the Entry Permit entered into by the City with Catellus. Notable provisions of the Entry Permit include the following:

- Catellus will provide the Port with copies of all boring logs, sample and laboratory test results promptly upon receipt and copies of any reports prepared by them documenting the results of the work conducted pursuant to these permits.

- Catellus will carry comprehensive or commercial general liability insurance throughout the term of the permit, with limits not less than One Million Dollars

- Catellus will repair all damage to the Permit area and restore it to its former conditions

- In addition to the Port's standard indemnity, Catellus will indemnify the Port against all claims resulting from any release of hazardous materials to the extent that such release is directly created or is aggravated by the activities undertaken by Catellus, or from any handling or disposal of hazardous materials on the permit area; however, Catellus will not be responsible for any claims resulting from the discovery or disclosure of pre-existing environmental conditions on the permit area, or for claims that result directly from the City or Port's negligence or willful misconduct.

- Catellus will waive all claims and release Port from liability arising from the condition of the permit area or its use by Catellus, except to the extent such damage results from the City's or Port's negligence or willful misconduct.

Prepared by: DOUGLAS WONG
Executive Director

I:\CATELLUS.MEM

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-32

WHEREAS, The Port and Catellus Development Corporation ("Catellus") are parties to the Port Land Transfer Agreement ("PLTA"), dated as of September 8, 1983. Under the PLTA, the Port agreed to transfer certain Port lands to Catellus in exchange for, among other things, the Western Pacific site located adjacent to Pier 80. Although Catellus terminated the Mission Bay Development Agreement in early 1996, the PLTA remains in effect. Catellus has expressed an interest in proceeding with the transfer under the PLTA. Under the PLTA, Catellus has the obligation to accept the Port property "as is," and to remediate the property to comply with applicable standards for the proposed uses.

WHEREAS, Catellus Development Corporation, or its agents (collectively, "Catellus"), desire to conduct geotechnical and environmental studies of certain Port properties within the area commonly known as Mission Bay, and these investigations are intended to assist Catellus in determining the condition and suitability of the property for its needs, and its potential remediation obligations; and

WHEREAS, the Port desires to provide these permits to Catellus to assist it in investigating the Property which will help to facilitate the implementation of the land transfers under the PLTA; and

WHEREAS, this permits does not commit the Port to issuance of any additional permits; and

WHEREAS, the Port's standard entry permit requires a broad indemnity, including coverage for damage to utilities and hazardous material investigations or remediation efforts mandated by other governmental agencies regardless of the fault or negligence of the permittee. In this case, the indemnity is limited in several respects. This is largely because Catellus has advised the Port that insurance is not available for such risks, particularly liability for pre-existing toxics due to no fault of Catellus. If Catellus decides not to proceed with the land transfer, or to only accept certain parcels of the Port transfer parcels, the Port will continue to have liability for the environmental condition of its property. The Port will bear ultimate responsibility for remediation of the property consistent with the requirements of applicable environmental agencies if other responsible parties are not identified or fail to respond to requests or orders from such agencies.

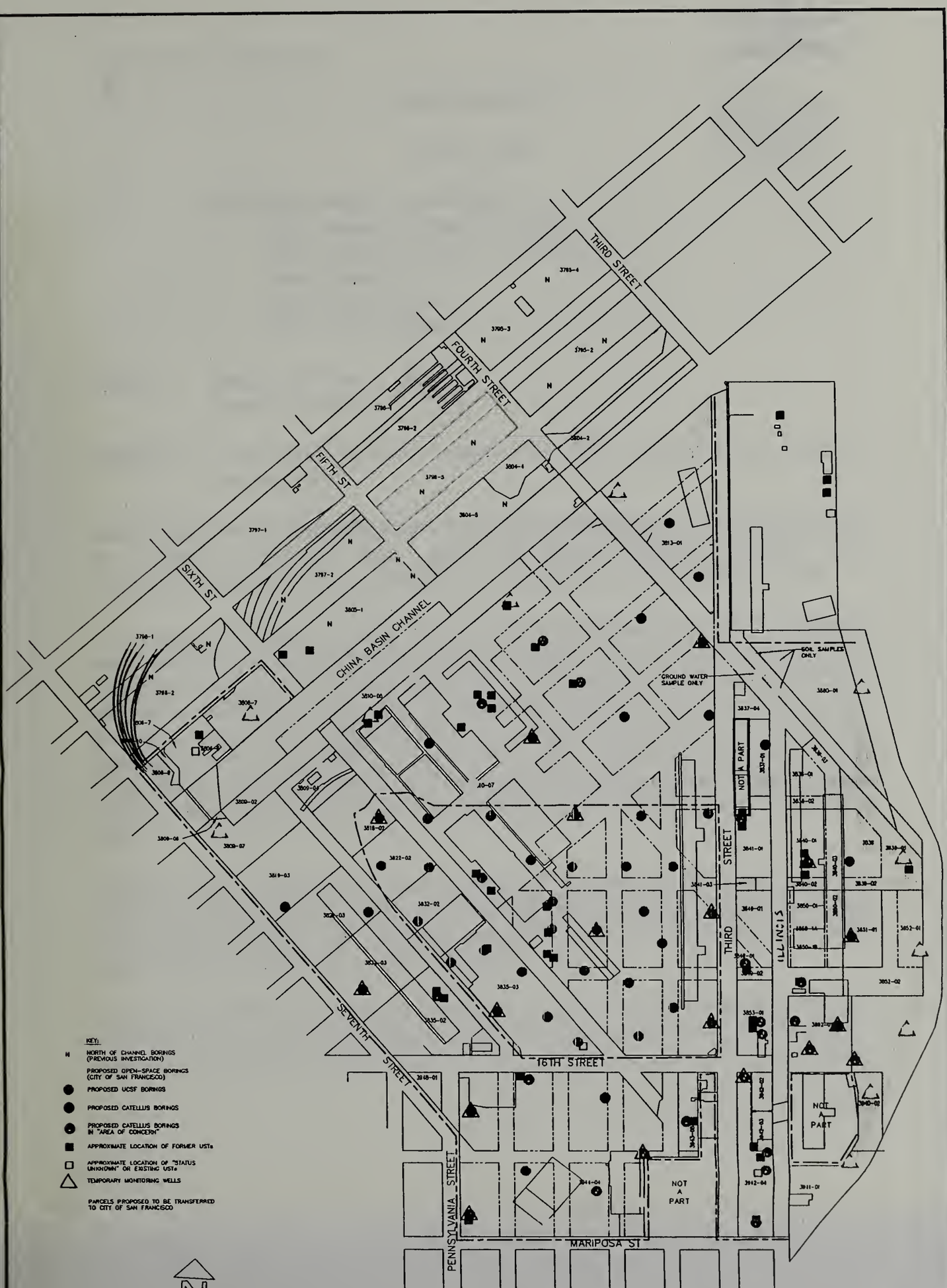
WHEREAS, Catellus has expressed a strong commitment in proceeding with the land transfers under the PLTA, and an intent to assume environmental remediation responsibilities once the transfers have occurred; now, therefore, be it

RESOLVED, that the San Francisco Port Commission hereby authorizes the Executive Director to approve a permit to enter with Catellus or its agents, having the terms set forth in the memorandum to Port Commission for Calendar No. 5A, at its meeting of April 22, 1997, a copy of which is on file with the Secretary of the Port Commission for this agenda item; and be it further

RESOLVED, that the Executive Director, in consultation with the City Attorney, is hereby further authorized to execute such other permits to enter having substantially the same terms as the Permit to Enter approved by this Resolution, necessary to facilitate further investigation of the Port's Mission Bay property subject to the proposed land transfers.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 22, 1997.

_____
Secretary



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ENVIRON
5820 Shellmound St., Suite 700, Emeryville, CA 94608

Sample Location Map
Catellus Mission Bay
San Francisco, California

Figure
A-1

Drafter: RS | Date: 4/2/97 | Contract Number: 03-5381L | Approved: | Revised:

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM

April 16, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie G. Lee
Hon. Preston Cook
Hon. James Herman

FROM: Douglas F. Wong
Executive Director

SUBJECT: Authorization to award Contract 2636, "Pier 48 Fire Damage Repair & Reconstruction"

DIRECTOR'S RECOMMENDATION: THAT THE COMMISSION AUTHORIZE STAFF TO AWARD CONTACT 2636, "PIER 48 FIRE DAMAGE REPAIR AND RECONSTRUCTION," IN ACCORDANCE WITH THE ATTACHED RESOLUTION

On November 26, 1996, a fire at the east end of Pier 48 destroyed the interconnecting wood frame structure and caused substantial structural damage to the steel frames, walls and roof at the easterly end of Sheds A and B on the pier. The fire caused significant deformation of steel trusses and caused pre-cast concrete wall panels that make up the exterior walls of the sheds to move from their original position. An emergency was declared and subsequently approved by the Port Commission on December 13, 1996. This emergency authorized staff to take several actions including hiring a consultant on an emergency basis develop a repair design for the building shell and to advertise for competitive bids for construction of the repairs.

In January, 1997, the Port advertised Contract 2636 for competitive bids. This contract will address only the repair and reconstruction of the shells of the buildings. The interior repairs including new fire walls, coiling fire doors, a sprinkler system, light fixtures and a fire alarm system will be provided under a separate contract.

On March 21, 1997, four (4) bids were received. A Summary of Bids is attached. The lowest responsive bidder was West Bay Builders, Inc./D. Stewart Thompson, Inc., a Joint Venture, with a low base bid of $2,529,768. D. Stewart Thompson, Inc. is a WBE firm with 51% of the

THIS PRINT COVERS CALENDAR ITEM 6A

work. Staff has reviewed the bid documents and the Human Rights Commission has reviewed and agreed that the subcontracting goals of 20% MBE and 5% WBE have been met. The contractor has 24% and 12% respectively.

Staff recommends that the Commission authorize the award of the base bid and Additive Alternative No. A-1 of Contract 2622 to West Bay Builders, Inc./D. Stewart Thompson, Inc., a Joint Venture, for a total contract amount of $2,599,768. Additive Alternative No. A-1 for $70,000 is for Types A and B coiling doors and grilles along column line 63. It is also recommended that the Commission authorize a 10% contingency for possible Type I contract modifications and that the Executive Director be authorized to accept the work after it is complete. It is anticipated that insurance monies will fund the entire cost of this contract.

Prepared by : Cliff Jarrard, Chief Harbor Engineer

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. **97-29**

WHEREAS, on November 26, 1996, a fire at the east end of Pier 48 destroyed the interconnecting wood frame structure and caused substantial damage to the steel frames, walls and roof at the easterly end of Sheds A and B on the pier; and

WHEREAS, through an emergency declaration with subsequent Commission approval on December 13, 1996 staff was authorized to advertise for competitive bids for Contract 2636; and

WHEREAS, on March 21, 1997, four (4) bids were received; and

WHEREAS, staff has reviewed the bid documents and determined that the lowest responsive bidder is West Bay Builders, Inc./ D. Stewart Thompson, Inc., a Joint Venture; and

WHEREAS, the Human Rights Commission has reviewed the bids and determined that this contractor has met the MBE/WBE subcontracting goals and that the contractor qualifies for the bid preference; and

WHEREAS, it is anticipated that insurance monies will fund the entire cost of this work, now therefore be it

RESOLVED, that the San Francisco Port Commission hereby authorizes the award of Contract 2636, "Pier 48 Fire Damage Repair & Reconstruction," to West Bay Builders, Inc./D. Stewart Thompson, Inc., a Joint Venture to include the base bid and Additive Alternative No. A-1 at a cost of $2,599,768, and authorizes a 10% contingency for possible Type 1 contract modifications; and be it further

RESOLVED, that the San Francisco Port Commission authorizes the Executive Director to accept the work after it is complete.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 22, 1997.

_____
Secretary

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BID SUMMARY
PORT OF SAN FRANCISCO

Prepared By: Hoy Kwok
Checked By: Rob Lim
Date: March 21, 1997

Bids Opened: March 19, 1997

Project: Pier 48 Fire Damage Repair & Reconstruction
Contract No.: 2636
Project Manager: Ed Byrne

				West Bay Builders Inc./ D. Stewart Thompson Inc., JV 3605 Buchanan Street S.F., CA 94123 (415) 456-8972		D.J.Amoroso Construction CO., Inc./ Trico Construction, JV 70 Gold Street S.F. , CA 94133 (415)288-8767		S.J. Amoroso Construction CO., Inc./ Marinship Construction, JV 41 Dorman Avenue, Suite 3 S.F. , CA 94124 (415)282-5160		Barnes/LTM., JV 449 10 th Street S.F. , CA 94103 (415)552-7070	
Div Item #	Bid Item #	Description	Estimated Quantity	L. S. Price= Total	Total	L.S. Price= Total	Total	L.S. Price= Total	Total	L.S. Price= Total	Total
1	1-1	Abatement of asbestos-containing materials, including demolition and disposal of roof patching compounds.	Lump Sum		$128,000		$20,000		$40,000		$10,000
	1-2	Abatement of lead-based paints, clean-up of lead contamination, demo. of lead-coated architectural assemblies and dust control measures by various trades, including clean-up and stabilization of loose and peeling lead-based paints from misc. areas, abatement of lead primer at weld locations, loose and peeling paints at the clear story jack-up, clean-up and disposal of lead contaminated sand and gravel on the roof and misc. control measures to comply with Cal/OSHA Reg. 8 CCR 1532.1	Lump Sum		$128,000		$10,000		$32,845		$87,000
	1-3	Mobilization and Demobilization of all equipment, labor and materials to the project site, including but not limited to the erection of the temporary facilities and controls, providing materials and equipment and completing contract close out.	Lump Sum		$128,000		$190,000		$124,515		$209,000
2	2-1	Selective demolition of the existing structure which will include the required shoring and bracing, removal and disposal of built-up roofing and sheathing, removal and disposal of damaged roof purlins, trusses and miscellaneous steel, removal and disposal of windows and framing, removal and disposal of heavy timber at connecting shed platform, and miscellaneous selective demolition and clean-up.	Lump Sum		$114,000		$150,000		$189,052		$73,000
	2-2	Removal and replacement of asphaltic concrete pavement at connecting shed.	Lump Sum		$67,000		$25,000		$13,760		$13,000
3	3-1	Construction of concrete footings, column supports and miscellaneous concreting. Includes reinforcement, falsework and formwork.	Lump Sum		$56,000		$23,000		$35,180		$88,000
	3-2	Concrete cleaning for existing exterior walls, approximately 20,000 sq.ft.	Lump Sum		$20,000		$15,000		$10,000		$49,000
5	5-1	Structural steel required for new roof purlins, truss repair, diagonals, beams and columns for steel frames, excluding that required for Bid Item 5-5.	Lump Sum		$300,000		$756,625		$750,000		$731,000
	5-2	Metal decking for new and existing roof repair including miscellaneous steel required for decking support.	Lump Sum		$191,000		$165,000		$280,000		$134,000
	5-3	Miscellaneous steel required for wall support.	Lump Sum		$50,000		$10,000		$46,600		$39,000
	5-4	All remaining miscellaneous steel required for project.	Lump Sum		$50,000		$20,000		$7,000		$30,000
	5-5	Metal framing for Shed C roof monitor, between column lines D.1 and D.2.	Lump Sum		$100,000		$25,000		$27,500		$36,000
6	6-1	Heavy timber framing for the connecting shed platform repair and extension.	Lump Sum		$75,000		$89,000		$43,700		$64,000
	6-2	Timber framing for the fascia and window repair and replacement.	Lump Sum		$25,000		$38,000		$27,720		$27,000
	6-3	All remaining miscellaneous timber required for project.	Lump Sum		$9,000		$41,000		$69,226		$55,000
7	7-1	Roof and building isulation.	Lump Sum		$10,000		$100,000		$98,000		$19,000
	7-2	Built-up roofing.	Lump Sum		$308,000		$200,000		$181,000		$328,000
	7-3	Sheet metal flashing and trim.	Lump Sum		$74,000		$90,000		$60,200		$66,000
	7-4	Joint sealers, backer rod, waterproofing, sealants, caulking, and expansion joint assemblies.	Lump Sum		$29,000		$30,000		$32,500		$12,000
8	8-1	Steel doors and frames.	Lump Sum		$28,000		$11,600		$3,360		$21,000
	8-2	Coiling doors and grilles.	Lump Sum		$100,000		$77,500		$36,000		$31,000
	8-3	Steel windows at the high monitor truss area including structural steel required for window framing.	Lump Sum		$150,000		$227,000		$141,000		$47,000
	8-4	All other steel windows including structural steel required for window framing.	Lump Sum		$56,000		$66,000		$109,000		$326,000

BID SUMMARY
PORT OF SAN FRANCISCO

Project: Pier 48 Fire Damage Repair & Reconstruction
Contract No.: 2636
Project Manager: Ed Byrne

Prepared By: Hoy Kwok
Checked By: Rob Lim
Date: March 21, 1997

Bids Opened: March 19, 1997

Div Item #	Bid Item #	Description	Estimated Quantity	West Bay Builders Inc / D. Stewart Thompson Inc , JV 3605 Buchanan Street S.F., CA 94123 (415) 456-8972 L. S. Price= Total	Total	D.J.Amoroso Construction CO., Inc./ Trico Construction, JV 70 Gold Street S.F. , CA 94133 (415)288-8767 L.S. Price= Total	Total	S.J. Amoroso Construction CO., Inc./ Marinship Construction, JV 41 Dorman Avenue, Suite 3 S.F. , CA 94124 (415)282-5160 L.S. Price= Total	Total	Barnes/LTM., JV 449 10 th Street S.F. , CA 94103 (415)552-7070 L.S. Price= Total	Total
8	8-5	Door hardware.	Lump Sum		$5,000		$1,600		$1,500		$17,000
	8-6	ALLOWANCE to repair, lubricate, paint, and recondition 12 existing overhead coiling metal doors, between column lines 37.5 and 49.5.	Lump Sum		$30,000		$30,000		$30,000		$30,000
	8-7	Steel windows at the Shed C roof monitor between column lines D.1 and D.2, including structural steel required for window framing.			$10,000		$7,000		$43,000		$2,000
9	9-1	Portland cement plaster for the exterior walls.	Lump Sum		$30,000		$92,000		$79,040		$101,000
	9-2	Gypsum board for the interior walls.	Lump Sum		$120,000		$30,000		$12,160		$44,000
Additive Bid Item	9-3	All painting and coating required for the exterior walls.	Lump Sum		$50,000		$55,000		$47,000		$45,000
Additive Bid Item	9-4	All painting and coating required for the interior of the building.	Lump Sum		$260,000		$90,000		$175,000		$167,000
15	15-1	Roof drain and overflow drain assemblies including all associated roof and overflow drain piping, fasteners, clamps, scuppers, core drilling, grouting, complete and in place.	Lump Sum		$15,000		$54,000		$51,000		$54,233
		THIS ROW IS NOT USED									
	X-1	North and South Shed C walls (on column lines D and E between column lines 49.5 to 63), including coiling doors.	Lump Sum		$67,000		$58,000		$149,250		$99,000
	X-2	Infill walls at proposed door openings along column line 63.	Lump Sum		$31,000		$20,000		$18,125		$19,000
	X-3	ALLOWANCE to perform environmental consulting work.	Lump Sum		$25,768		$25,768		$25,768		$25,768
Additive Bid Item	A-1	Types A and B coiling doors and grilles along column line 63.	Lump Sum		See note 1						
Additive Bid Item	A-2	Type D coiling doors and grilles along column line 63.	Lump Sum		$70,000		$13,100		$15,000		$17,000
			Lump Sum		$70,000		$13,300		$0		$26,000
		BASE BID TOTAL			**$2,529,768**		**$2,698,093**		**$2,768,001**		**$2,887,000**
		BASE BID TOTAL+ ADDITIVE BID ITEM A-1			see note 2 **$2,599,768**		see note 3 **$2,711,193**		**$2,783,001**		**$2,904,000**

Note 1: The X-3 price from the contractor ($26,000) has been adjusted to the Port allowance price.

Note 2: The contractor added the total base bid incorrectly ($2,520,000).The summary sheet has adjusted the incorrect amount.

Note 3: The bid is not responsive, See page 3.

BID SUMMARY
PORT OF SAN FRANCISCO

Prepared By: Hoy Kwok
Checked By: Rob Lim
Date: March 21, 1997

Bids Opened: March 19, 1997

Project: Pier 48 Fire Damage Repair & Reconstruction
Contract No.: 2636
Project Manager: Ed Byrne

		West Bay Builders Inc./D.Stewart Thompson Inc., JV 3605 Buchanan Street S.F., CA 94123 (415) 456-8972		D.J.Amoroso /Trico Construction., JV 70 Gold Street S.F. , CA 94133 (415)288-8767		S.J. Amoroso & Marinship Construction, JV 41 Dorman Avenue, Suite 3 S.F. , CA 94124 (415)282-5160		Barnes/LTM., JV 449 10 th Street S.F. , CA 94103 (415)552-7070	
Required Forms	Document #	Yes (Y)	No (N)	Yes (Y)	No (N)	Yes (Y)	No (N)	Yes (Y)	No (N)
Bid	00300	Y		Y		Y		Y	
Addenda Acknowledgement		Y		Y		Y		Y	
Schedule of Bid Prices	00302	Y		Y		Y		Y	
Schedule of Unit Prices	00304	N/A		N/A		N/A		N/A	
Bid Bond	00411	Y		Y		Y		Y	
Experience & Financial Qualifications	00420	Y		Y		Y		Y	
List of Subcontractors	00430	Y		Y		Y		Y	
Non-Collusion Certification	00481	Y		Y		Y		Y	
HRC Form 1		Y		Y		Y		Y	
HRC Schedule A (as applic, by 5pm)		N/A		N/A		N/A		N/A	
HRC Schedule L (as applic, by 5pm)		N/A		N/A		N/A		N/A	
HRC Form 2A		Y		Y		Y		Y	
HRC Form 2B		Y		Y			N	Y	
Apprenticeship Program	00490	Y		Y		Y		Y	
Business Tax Reg Declaration	00491	Y		Y		Y		Y	
Highest General Prevailing Wage	00492	Y		Y		Y		Y	
Equal Opp Empl & Bus Practices: LD	00493	Y		Y		Y		Y	
MacBride Principles	00494	Y		Y		Y		Y	
Deemed Responsive by Engin & HRC (Y/N) ?		Y			N	Y		Y	
Total Bid ►		$2,599,768		$2,711,193		$2,783,001		$2,904,000	
PREFERENCES (as applicable):									
MBE	10%								
WBE	10%								
LBE	5%								
JV	5%								
JV	7.5%								
JV	10%	($259,977)		($271,119)		($278,300)		($290,400)	
Adjusted Bid ►		$2,339,791		$2,440,074		$2,504,701		$2,613,600	

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PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
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Fax 415 274 0528
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Writer

MEMORANDUM

April 15, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie G. Lee
Hon. Preston Cook
Hon. James Herman

FROM: Douglas F. Wong
Executive Director

SUBJECT: First Amendment to the Professional Services Contract for "New Maintenance Facility"

DIRECTOR'S RECOMMENDATION: APPROVAL OF FIRST AMENDMENT, AUTHORIZING ADDITIONAL SERVICES UNDER PROFESSIONAL SERVICES CONTRACT NO. SA39760016, "NEW MAINTENANCE FACILITY," WITH KENDALL YOUNG ASSOCIATES/BEVERLY PRIOR ARCHITECTS ("KYA/BPA"), A JOINT VENTURE

The Commission previously awarded a contract to KYA/BPA for the design of the New Maintenance Facility ("NMF") at Pier 48. Because the NMF will be located at Pier 50 instead of Pier 48, it is necessary to amend KYA/BPA's scope of services. Although much of KYA/BPA's work to date in designing shops and storage facilities will be used for the Pier 50 facility design, the change in location of the NMF does necessitate two changes in the scope of work.

KYA/BPA's contract will be amended to redirect their original design services related to the NMF to Pier 50 instead of Pier 48. There is no cost impact for this change since the remaining contract balance of $235,118 will be used to fund this work. This work includes shop design and layout, mechanical and electrical design, construction documents preparation, and construction support services.

KYA/BPA's contract will also be amended to include limited additional services for the design of interior repairs to the fire damaged areas at Pier 48. The cost of the additional services is $72,644. The interior repairs will include new firewalls, new coiling fire doors, a sprinkler system, light fixtures, and a fire alarm system. KYA/BPA will prepare the necessary construction and bid documents for the Port to solicit bids to accomplish this work. It is anticipated that these additional services will be paid for by the fire insurance company. Accordingly, KYA/BPA will be authorized to proceed with these services only upon confirmation of fire insurance company coverage.

Prepared by: Cliff Jarrard, Chief Harbor Engineer

THIS PRINT COVERS CALENDAR ITEM NO. 6B

rl:cj:I:\COMM_MEM.WPD

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-26

WHEREAS, the Commission previously awarded a contract to Kendall Young Associates/Beverly Prior Architects ("KYA/BPA"), A Joint Venture, for the design of the New Maintenance Facility ("NMF") at Pier 48; and

WHEREAS, the NMF will be located at Pier 50 instead of Pier 48; and

WHEREAS, although much of KYA/BPA's work to date in designing shops and storage facilities will be used for the Pier 50 facility design, the change in location of the NMF does necessitate two changes in the scope of work; and KYA/BPA's contract will be amended to redirect their original services related to the NMF to Pier 50 instead of Pier 48; and there is no cost impact for this change since the remaining contract balance of $235,118 will be used to fund this work; and

WHEREAS, this work includes shop design and layout, mechanical and electrical design, construction documents preparation, and construction support services; and

WHEREAS, KYA/BPA's contract will also be amended to include limited additional services for the design of interior repairs to the fire damaged areas at Pier 48; and

WHEREAS, the cost of the additional services is $72,644; and

WHEREAS, the interior repairs will include new firewalls, new coiling fire doors, a sprinkler system, light fixtures, and a fire alarm system; and KYA/BPA will prepare the necessary construction and bid documents for the Port to solicit bids to accomplish this work; and it is anticipated that these additional design services will be paid for by the fire insurance company; and accordingly, KYA/BPA will be authorized to proceed with these services only upon confirmation of fire insurance company coverage; therefore be it

RESOLVED, the San Francisco Port Commission hereby approves the First Amendment to the KYA/BPA Professional Services Contract No. 39760016, "New Maintenance Facility," for redirecting NMF services to Pier 50 instead of Pier 48 and for additional services for $72,644.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 22, 1997.

_____
Secretary

PORT OF SAN FRANCISCO

MEMORANDUM

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

April 15, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie Lee
Hon. Preston Cook
Hon. James Herman

FROM: Douglas Wong
Executive Director

SUBJECT: Professional Services Contract for Soil and Groundwater Characterization and Management Services, Authorization to Award.

DIRECTOR'S RECOMMENDATION: AUTHORIZE STAFF TO AWARD THE PROFESSIONAL SERVICES CONTRACT FOR AS-NEEDED "SOIL AND GROUNDWATER CHARACTERIZATION AND MANAGEMENT SERVICES" TO TETRA TECH, INC.

The Commission previously authorized Port staff to issue a Request for Proposal ("RFP") for providing as-needed soil and groundwater characterization and management services. On January 20, 1997, the Port issued the RFP for environmental consulting services for this project. On February 13, 1997, the Port received 21 proposals.

A selection panel reviewed and evaluated all proposals, and on February 28, 1997, issued a short list of four firms which were selected to proceed in the evaluation process. On March 19, 1997, a selection panel interviewed and evaluated four teams. Tetra Tech received the highest score following completion of the evaluations. The selection of Tetra Tech has been reviewed and approved by the Port's Human Rights Commission representative.

Subsequently, the Port met with Tetra Tech to negotiate a schedule of fees. The Port and Tetra Tech have agreed to the attached schedule of fees for providing as-needed consulting services. Port staff requests that the Port Commission authorize award of this contract to Tetra Tech, Inc.

Prepared by: Alex Lee, Director, Facilities and Operations

THIS PRINT COVERS CALENDAR ITEM NO. 6C

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-30

WHEREAS, the Commission previously authorized staff to issue an RFP for as-needed environmental consulting services; and

WHEREAS, on January 20, 1997 the Port received proposals for this professional services work; and

WHEREAS, a selection panel reviewed all proposals, and interviewed four proposers to select the best qualified consultant team; and

WHEREAS, the selection panel selected Tetra Tech, Inc.; and

WHEREAS, the contract will provide for professional environmental consulting services including underground storage tank site investigation, assessment of contaminated soil and groundwater, and remedial action planning; and

WHEREAS, the Human Rights Commission has confirmed that this firm is responsive in accordance with Section 12D of the San Francisco Administrative Code; now, therefore be it

RESOLVED, that the San Francisco Port Commission hereby approves the authorization to award the subject professional services contract for the "Soil and Groundwater Characterization and Management Services" to Tetra Tech, Inc., at a cost not to exceed $360,000.

I hereby certify that the forgoing resolution was adopted by the San Francisco Port Commission at its meeting of April 22, 1997.

_____
SECRETARY

FEES

Fees for labor and equipment shall be charged as specified in the attached schedule of fees, with the following additional terms and conditions:

- Subcontractors will charged as proposed in the attached rate schedule with a 5% mark-up.
- Rates for Tetra Tech labor and subcontractors will be valid for two years from the date of execution of this contract.

Premium rates or other charges will not be paid without prior approval.

Invoices to the Port will list dates and a description of activities for all labor and equipment charges, and include direct invoices for subcontracted services or other charges.

Tetra Tech - San Francisco
Schedule of Fees
Port of San Francisco
April 1997

Position	Hourly Rate
Principal/Senior Management	$117
Consulting Project manager	$92
Technical Staff	
Senior	$90
Staff	$72
Technician	$45
Industrial Hygiene / Health and Safety	
Senior	$87
Staff	$55
Drafting	$45
Word Processing	$45
Clerical Support	$37
Billing/Accounting	$40

Additional Costs	Markup
Field Equipment & Misc. Equipment Charges (See Attached Table)	10% Handling
Subcontractor/Laboratory Charges (See Attached Fee Schedules)	5% Handling
Other Direct Costs	5% Handling

Miscellaneous Expenses

A) Meals and lodging expenses shall not be allowed without prior approval.

B) Miscellaneous field supplies and other small equipment purchased for project work shall be subject to a 10% markup limit.

C) Mileage shall be reimbursed at a rate of $0.31 per mile for work performed outside the City of San Francisco; vehicle and mileage charges for work performed in the City and costs for transportation to and from the City shall not be approved.

D) Fax and computer allocations, communication fees and other flat rate administrative fee charges shall not be reimbursable. Overhead costs of communication computers, faxes and other office management costs shall be assumed to be included in staff rates.

E) Other direct cost to be reimbursed by the Port include:
- Copies of documents in addition to the one copy provided to the Port;
- Color copies;
- Oversized copies (larger than 11" x 17");
- Express mail;
- Courier services; and
- Sample shipping.

Tetra Tech – San Francisco
Project Personnel
Port of San Francisco
April 1997

Position	Tetra Tech Personnel
Principal/Senior Management	John King, CIH
Consulting Project Manager	Brad Hall, RG
Technical Staff	
Senior	Bob Cotton, RG, PE
	Mike Wopat, RG
	Tom Whitehead, RG, HG, REA
Staff	Bill Bicknell
	Kathy Bishop
	Mike Guy
	Mary Holkenbrink
	Kris Kolassa
	Elizabeth Purl
Technician	Yashekia Evans
	Andrea Hatch
	Kevin Joyce
	Pat Ledesma
Industrial Hygiene/Health & Safety	
Senior	Roy Roenbeck
Staff	John Bock
Drafting	Henry Chang
	Ted Hayden
	Mike Yakura
Word Processing	Jay Greenspan
	Helen Quan
	Randy Varney
Clerical Support	Susan Chew
	Elisa Lyons
Billing/Accounting	Lisa Vu

Tetra Tech – San Francisco
Equipment Charge Schedule
Port of San Francisco
April 1997

ITEM	Daily	Weekly
General		
Tetra Tech Van & Rental Car	$45.00	$225.00
Tetra Tech 4WD/Van	$60.00	$300.00
Camera, 35mm	$6.00	$24.00
Video Camera/Recorder	$26.00	$104.00
Video Monitor (Television)	$11.00	$44.00
Portable Computer	$80.00	$400.00
Cellular Phone	$10.00	$40.00
Metal Detector (Ferro-Trac)	$10.00	$40.00
Transit (with Tripod and Rod)	$30.00	$120.00
Navigation System (GPS)	$85.00	$340.00
Safety		
Level A	$400.00	—
Level B	$200.00	—
Level C	$95.00	—
Level D (modified)	$10.00	—
Level D	$5.00	—
Eyewash Station	$10.00	$40.00
Respirator Cartridge	$3.00	$11.00
Respirator Canister	$5.00	$20.00
SCBA	$75.00	$300.00
SCBA (Hip-Air Breathing Apparatus)	$65.00	$260.00
Pumps		
Air, High and Low Flow (Alpha and Gilian)	$60.00	$240.00
Air, External Programmer (Alpha)	$20.00	$80.00
Air, High Volume	$45.00	$180.00
Draeger Pump	$32.00	$128.00
Draeger Detector Tubes	$10.00 each	—
Wattera Hand	$6.00	$24.00
Peristaltic	$55.00	$220.00
Rotometer, High Flow (Gilian)	—	$12.00
Rotometer, Low Flow (SKC)	$6.00	$24.00
Portable 2' Purge Pump	$25.00	$100.00
Submersible (Grundfos, SLC)	$20.00	$80.00
Submersible (Grundfos, Redi Flo)	$160.00	$640.00
Bladder Air-Lift	$110.00	$440.00

Tetra Tech – San Francisco
Equipment Charge Schedule (cont.)
Port of San Francisco
April 1997

ITEM	Daily	Weekly
Meters		
Conductivity Probe (Whatman)	$8.00	$32.00
Conductivity / Temperature Meter (YSI #33)	$20.00	$90.00
Dissolved Oxygen (YSI-51B)	$20.00	$90.00
pH/Temperature Probe (Whatman)	$15.00	$60.00
pH/Temperature Probe (Orion SA-250)	$20.00	$90.00
Radiation	$30.00	$120.00
Soil Gas Probe (AMS)	$12.00	$48.00
Turbidimeter (Hach)	$25.00	$100.00
Data Logger, 2 channel	$65.00	$325.00
Pressure Transducer (each)	$35.00	$175.00
Water Quality System (YSI 3800)	$200.00	$800.00
Air Monitors		
Aerosol (Miniram)	$110.00	$440.00
CG/O2/H2S	$70.00	$280.00
CG/O2	$60.00	$240.00
Organic Vapor Analyser (OVA)	$120.00	$480.00
PID (Micro Tip, 10.6 eV lamp)	$100.00	$400.00
PID (HNu with 10.2 eV lamp)	$100.00	$400.00
PID (HNu with 11.7 eV lamp)	$115.00	$460.00
Miscellaneous Sampling		
Bailer, Teflon	$12.00	$48.00
Bailer, Stainless Steel	$12.00	$48.00
Bailer, Disposable	$10.00 each	---
Sediment Grab Sampler	$20.00	$80.00
AMS Soil Sampling Kit	$55.00	$220.00
Water Level Indicator	$20.00	$80.00
Oil/Water Interface Probe (ORS)	$40.00	$160.00
Stainless Steel Sleeve (2" x 6")	$4.00 each	---
End Caps (2")	$0.15 each	---

Superior
Analytical Laboratory

PRICE LIST FOR TETRA TECH
PORT OF SAN FRANCISCO PROJECT
Quote No. 97-02435
5 day turn-around • Level II Reporting • Soil / Water / Air

ORGANIC ANALYSIS

METHOD	TYPE OF ANALYSIS	REPORTING LIMITS	CONTAINERS	PRICE
EPA Method 8010,601	Chlorinated Hydrocarbons	S: 5.0 ppb W: 0.5 ppb	S: Brass tube W: 3 pres. VOAs	60
EPA Method 8015M	Diesel	S: 1.0 ppm W: 50 ppb	S: Brass tube W: 1 ltr.amber	60
EPA Method 8015M	Gasoline	S: 1.0 ppm W: 50 ppb	S: Brass tube W: 3 pres. VOAs	50
EPA Method 8015M	TEPH Scan - IDQ	S: 1.0 - 100 ppm W: 50 - 500 ppb	S: Brass tube W: 1 ltr. amber	70
EPA Method 8015M/8020	Gas/BTXE	S: 1.0 ppm/5.0 ppb W: 50 ppb/0.5 ppb	S: Brass tube W: 3 pres. VOAs	55
EPA Method 8015M/8020	Gas/BTXE/MTBE	S: 1 ppm/5 ppb/5 ppb W: 50 ppb/.5 ppb/5 ppb	S: Brass tube W: 3 pres. VOAs	60
EPA Method 8020,602	BTXE (Volatile Aromatics)	S: 5.0 ppb W: 0.5 ppb	S: Brass tube W: 3 pres. VOAs	50
EPA Method 8080,608	PCB's only	S: 30 ppb W: 1.0 ppb	S: Brass tube W: 1 ltr. Amber	65
EPA Method 8080,608	Pesticides only	S: 5-100 ppb W: 0.1-10 ppb	S: Brass tube W: 1 ltr. Amber	75
EPA Method 8080,608	PCB's & Pesticides	S: 5-100 ppb W: 0.1-10 ppb	S: Brass tube W: 1 ltr. Amber	140
EPA Method 8240,624	VOC's (Mass Spectrometry)	S: 5-500 ppb W: 1-100 ppb	S: Brass tube W: 3 pres. VOAs	125
EPA Method 8260	VOC's (Mass Spectrometry)	S: 3-500 ppb W: 1-100 ppb	S: Brass tube W: 3 pres. VOAs	125
EPA Method 8270,625	SVOC's (Mass Spectrometry)	S: 300 ppb W: 10 ppb	S: Brass tube W: 2 x 1 ltr. Amber	250
EPA Method 8310	PAH's (Polynuclear Aromatic Hydrocarbons)	S: 5-200 ppm W: 0.05-2 ppb	S: Brass tube W: 1 ltr. Amber	160
EPA Method 8330	Explosive Residues	S: 0.25-2.2 ppm W: 0.02-13 ppb	S: Brass tube W: 2 x 1 ltr. Amber	175
EPA Method 418.1	Total Recoverable Petroleum Hydrocarbons	S: 20 ppm W: 1 ppm	S: Brass tube W: 1 ltr. H_2SO_4 pres.	60
Standard Method 5520	Oil & Grease (Gravimetric)	S: 50 ppm W: 5 ppm	S: Brass tube W: 1 ltr. H_2SO_4 pres.	60
DHS-LUFT	Organic Lead	S: 2 ppm W: 4 ppm	S: Brass tube W: 1 ltr. Amber	45

For quotes, bottle orders or laboratory arrangements, please call Kristen Zink at (800) 221-6655:

Superior

SAL Analytical Laboratory

WET CHEMISTRY ANALYSIS

METHOD	TYPE OF ANALYSIS	REPORTING LIMITS	CONTAINERS	PRICE
SW 846	Reactivity	Cyanides: 2 mg/Kg Sulfides: 5 mg/Kg	S: Brass tube W: 1 ltr. Amber	60
150.1/9045	Corrosivity (pH)	not applicable	S: Brass tube W: unpreserved VOA	5
1010	Ignitability	not applicable	S: Brass tube W: unpreserved VOA	15
7196	Hexavalent Chromium (24 hr. Hold on Waters)	S: 0.1 ppm W: 0.1 ppm	S: Brass tube W: 1 ltr. Unpreserved	25
160.1	Total Dissolved Solids	10 ppm	W: 500 ml plastic	15
160.2	Total Suspended Solids	10 ppm	W: 1 ltr. Plastic	15
300.0	Anions by IC (Nitrate, Nitrite, Sulfate, Phosphate, Bromide, Fluoride, Chloride)	S: 5 - 60 ppb W: 5 - 60 ppb	S: Brass tube W: 250 ml unpreserved plastic	20 per anion or 100 per full run

INORGANIC ANALYSES

TYPE OF ANALYSIS	PRICE
Metals by ICP (200.7 / 6010 Series)	10 per metal
Metals by GFAA (7000 Series) (arsenic, selenium, lead, thallium)	12 per metal
Mercury by CVAA (Use 1 ltr amber glass pres. w/HNO3)	30
17 CCR Metals (6000 & 7000 Series) (17 metals)	160
Priority Pollutant Metals (6000 & 7000 Series) (13 metals)	120
RCRA Metals (6000 & 7000 Series) (8 metals)	80

All containers for metals analyses utilize Brass tube for soils and 250 ml. HNO_3 plastic container for water.
**** For dissolved metals, filter before preservation.****

EXTRACTIONS

TYPE OF ANALYSIS	PRICE
TCLP Extraction (Semi-volatiles and metals) (16 hour extraction)	60
ZHE Extraction (Volatiles) (16 hour extraction)	60
STLC Extraction (W.E.T.) (48 hour extraction)	60

RUSH SURCHARGE

(From receipt of samples in laboratory)

SAME DAY	1-DAY	2-DAY	3-DAY	4-DAY	5-DAY
200%	90%	70%	50%	20%	Standard

Superior
Analytical Laboratory

ADDED VALUE SERVICES

Prices Include:

1. Assigned Project Manager
2. Technical Consultation
3. Sample Containers
4. Standard 5 Day Reporting
5. Courier Pick-up
6. One Copy of Report, Level II Format
7. Disposal of Samples Analyzed

Available But Not Included:

1. Summary Tables
2. Contour Maps
3. Electronic Data Deliverables
4. Data Archiving
5. Additional Copies of Reports / Extended Data Packages
6. Rush Service
7. Rush Courier Service

Other Charges:

1. There is a $8.00 per sample hold / disposal fee for samples submitted and not analyzed.
2. Composite of Samples - $5.00 per container
3. Sample Filtration - $5.00 per container
4. Copy of Chromatogram - $5.00 per analysis
5. Moisture / Dry Weight / Water Content - $10.00 per sample
6. Retroactive [>6 months since analysis] Copy of Chromatogram - $50.00/hr

Terms and Conditions:

1. This quotation/price list is valid through December 31, 1997
2. Upon credit approval, payment terms are Net 30. A finance charge of 1.5% may be applied to past-due balances.
3. Turnaround time begins at 8:00 a.m. the next business day for samples received after 3:00 p.m.
4. No discounts will apply for samples with turnaround times greater than 5 days.

Laboratory Contact:

For bottle orders or laboratory arrangements, please contact Kristen Zink at (800) 221-6655.

SCA

Environmental, Inc.

Engineering and Environmental Consultants

HOURLY RATE SCHEDULE

TITLE	LEVEL	FEE†
Senior Consultant	Professional V	$ 115
Consultant	Professional IV	$ 115
Industrial Hygienist III (CIH*)	Professional III	$ 115
Industrial Hygienist II	Professional II	$ 95
Project Manager	Professional I	$ 70
Asst. Industrial Hygienist (IHIT***)	Professional I	$ 70
Junior Industrial Hygienist	Technician III	$ 60
Industrial Hygiene Technician	Technician II	$ 50
Professional Engineer (PE**)	Professional III	$ 115
Construction Specialist	Professional I	$ 60
Project Engineer	Professional I	$ 60
Design Engineer	Technician I	$ 40
Environmental Engineer III	Professional III	$ 95
Environmental Engineer II	Professional II	$ 80
Environmental Engineer I	Professional I	$ 55
Environmental Technician II	Technician II	$ 55
Environmental Technician I	Technician I	$ 50
Computer Scientist III	Professional III	$ 95
Computer Scientist II	Professional II	$ 75
Computer Scientist I	Professional I	$ 55
Laboratory Analyst	Professional I	$ 50
Administrative Manager	Support Staff II	$ 65
Technical Editor	Support Staff II	$ 50
Information Specialist	Support Staff II	$ 45
Drafter/Graphics Artist	Support Staff I	$ 40
Word Processor	Support Staff I	$ 40
Administrative Support	Support Staff I	$ 40
Courier		$ 15

* Certified Industrial Hygienist
** Professional Engineer
*** Industrial Hygienist-in-Training

† Premium time will be billed at the above rate plus 16% for field work over 8 hours/day and/or required after 6:00pm and before 7:00am on weekdays and all hours on weekends and holidays.

Time spent on deposition or court appearances and their related activities will be billed at above rate plus 100%.

PRECISION SAMPLING

Prepared for:
Scope of work:

Date:
Project:
Site:
Rig:
Days:
Crew:

ITEM DESCRIPTION	UNIT	UNIT COST	QUAN UNIT	COST	TOTAL
Services					
Enviro-Core" continuous soil coring, cased borehole	day	$1,390.00	0.00	$0.00	
Discrete groundwater profiling, "Waterloo system"	day	$1,390.00	0.00	$0.00	
Sampling Services	hour	$139.00	0.00	$0.00	
Overtime sampling (after 10 hours)	hour	$165.00	0.00	$0.00	
Technician services	hour	$40.00	0.00	$0.00	
Concrete Coring	inch	$5.50	0.00	$0.00	$0.00
Mobilization					
Mobilize from PSI to site and return	lot	$0.00	0	$0.00	$0.00
Waste Recycling					
Remove rinsate and soil samples	day	$200.00	0.0	$0.00	$0.00
Subsistence					
Per Diem (two man crew)	day	$165.00	0	$0.00	$0.00
Chargeable Equipment					
SD-1 RIG Premium Charge	day	$100.00	0.0	$0.00	
Support Vehicle	day	$50.00	0.0	$0.00	
Concrete Coring Equipment	day	$125.00	0.0	$0.00	
Pressure Washer/Steam Cleaner	day	$100.00	0.0	$0.00	$0.00
Consumable Materials					
Stainless tubes & caps (6")	each	$4.00	0	$0.00	
Butyrate tubes & caps (3')	each	$5.25	0	$0.00	
Borehole grouting and de-con	foot	$0.85	0	$0.00	
In-situ groundwater sampling (Enviro-Core)	foot	$2.65	0	$0.00	
In-situ groundwater sampling (probing)	foot	$3.25	0	$0.00	
Waterloo discrete groundwater profiling	foot	$1.15	0	$0.00	
Well completions, (permanent)	foot	$4.25	0	$0.00	
Pre Pack Well Screen (1.25"x3/4")	foot	$8.00	0	$0.00	
Tyvek Suits	each	$12.00	0	$0.00	
7" Water Tight Well Cover	each	$68.00	0	$0.00	
5 Gallon DOT 17H Pail	each	$16.50	0	$0.00	
55-Gallon DOT 17H Drum	each	$45.00	0	$0.00	
Disposable Bailer	each	$11.00	0	$0.00	$0.00
		COST ESTIMATE TOTAL			**$0.00**

FEE SCHEDULE FOR PROFESSIONAL SERVICES

Engineering	Hourly Rate
Principal	$110.00
Senior Project Scientist	$100.00
Environmental Engineer (PE)	$90.00
Staff Scientist	$60.00
Field Technician	$45.00
CAD Operator	$50.00
Public Participation	
Principal	$110.00
Project Manager	$100.00
Program Manager	$90.00
Publication Manager	$60.00
Media Relations Manager	$60.00
Facilitation/Meeting Manager	$60.00
Designer	$50.00
Clerical & Support Staff	$30.00

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415.989.3039
Fax 415.732.7259

315 Washington Street
Suite 300
Oakland, CA 94607
510.530.1545
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PORT OF SAN FRANCISCO

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Writer

MEMORANDUM

April 22, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie G. Lee
Hon. Preston Cook
Hon. James Herman

FROM: Douglas F. Wong
Executive Director

SUBJECT: First Amendment to the Professional Services Contract for the "Design of Pier 52 Public Boat Ramp, Bait Shop and Cafe, and Public Access"

DIRECTOR'S RECOMMENDATION: APPROVAL OF A FIRST AMENDMENT, AUTHORIZING ADDITIONAL DESIGN SERVICES UNDER PROFESSIONAL SERVICES CONTRACT NO. SA3960018, "PIER 52 PUBLIC BOAT RAMP, BAIT SHOP & CAFE, AND PUBLIC ACCESS," WITH ARCUS ARCHITECTURE & PLANNING.

On November 15, 1995, the Port entered into a contract with Arcus Architecture & Planning (Arcus) to provide professional architectural and engineering services for the design of the Pier 52 Public Boat Ramp, Bait Shop & Cafe, and Public Access Project. During the conceptual design, the Port added project program components, studies, and estimates not included in the original contract, to the Arcus scope of work. These changes were required due to direction from the Port Commission, the Department of Public Work's Disability Access Coordinator, Port appointed Design Advisors, and the Citizen's Advisory.

THIS PRINT COVERS CALENDAR ITEM NO. 6D

Additional program components include:

1) a disability accessible gangway and guest dock,
2) a new pile-supported double lane launch ramp,
3) a 20 space boat trailer parking lot,
4) a boat wash facility,
5) the Parking Lot Geotechnical studies, and
6) the unforeseen difficulty in soil boring data collection.

These program element improvements have been added to the overall project design because disability access and parking amenities are necessary to meet the Department of Boating and Waterways grant funding criteria. Further, a double lane boat launch ramp will better serve the recreational boating community, since this is the only planned public boat launch in San Francisco.

The additional design studies and cost estimates include:

1) boat hoist alternatives,
2) boat storage requirements,
3) a fish cleaning facility,
4) the maneuvering area at the top of the boat ramp,
5) boat trailer parking alternatives, and
6) an expanded site drainage analysis study.

All of the project program components listed above need to be included into a contract modification with Arcus. Therefore, it is necessary to amend Arcus' contract scope of services, extend the completion date, and increase Arcus' compensation. Staff seeks the Commission's approval to increase the amount of compensation in the current conceptual design services contract from $235,000 to $322,337. This includes an additional $28,337 for additional services provided in Phase I - Preliminary Design Study, and $59,000 for additional services provided to complete Phase II - Detailed Design. In addition, the consultant's completion date should be extended to January 30, 1998.

Prepared by: Cliff Jarrard
Chief Harbor Engineer

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-31

WHEREAS, the Port Commission previously awarded a contract to Arcus Architecture & Planning for the design of the Pier 52 Public Boat Ramp, Bait Shop & Cafe, and Public Access Project; and

WHEREAS, it is necessary to amend Arcus' scope of services to include additional services for the design of a disability accessible gangway and guest dock, a new pile-supported double lane launch ramp, a 20 space boat trailer parking lot, and a boat wash facility; and

WHEREAS, Arcus Architecture & Planning will prepare the necessary construction and bid documents for the Port to solicit bids; and

WHEREAS, Arcus Architecture & Planning's contract will also be amended to extend the current contract duration and provide additional scope of services; therefore be it

RESOLVED, the San Francisco Port Commission hereby approves the First Amendment to the Arcus Architecture & Planning Professional Services Contract No. 3960018, "Pier 52 Public Boat Ramp, Bait Shop & Cafe, and Public Access Project," for additional services for $87,337.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 22, 1997

_____
Secretary

PORT OF SAN FRANCISCO

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MEMORANDUM

April 22, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie G. Lee
Hon. Preston Cook
Hon. James Herman

FROM: Douglas F. Wong
Executive Director

SUBJECT: Informational presentation on the Pier 52 boat launch project

DIRECTOR'S RECOMMENDATION: Informational presentation only; no action required

Background

The Pier 52 boat launch project has been reviewed by the Port Commission on numerous previous occasions, most recently at the October 15, 1996 Port Commission meeting. The project involves the following major components:

- Double lane boat launch;
- Gangway and floats providing disabled access;
- Shoreline improvements and public access;
- Landscaping lighting and site improvements;
- A cafe , bait shop and dining deck; and
- A 20 space trailer boat parking lot.

The purpose of this presentation is to brief the Commission on the current status of the project, and make recommendations regarding the initial scope of the project to be put out to bid.

THIS PRINT COVERS CALENDAR ITEM NO. 7A

Status

Permitting: The Port received approval for the project from the Bay Conservation and Development Commission ("BCDC") on January 16, 1997. The Port has also applied for a permit from the Army Corps of Engineers which it expects to be issued shortly.

Design and Funding: The design team led by Arcus Architecture has completed 60% design drawings on the project and has prepared a construction cost estimate. (A separate but related item is on the Port Commission agenda related to a contract modification to address changes in the design scope of the project). The current construction cost estimate exceeds the amount of funding currently available for the project.

Project phasing

Port staff recommends that the construction of the cafe\bait shop and dining deck be deferred until a later date. Staff's recommendation is based on the following factors:

1) The current amount of funding available may not be sufficient to fund the entire project. The deferral of the cafe\bait shop and dining deck to a future phase will bring the project within the Port's current budget constraints. If bids come in lower than expected, staff recommends that these cost savings be set aside and allocated towards the provision of a bait shop facility.

2) A concentrated effort has been made to design the structure to meet the needs of a typical restaurant operator. However, Port staff believes that the eventual restaurant operator should be involved in the final design of the building. The staff is proposing that an operator be selected prior to the construction of the restaurant building to ensure that it will meet their specific needs.

3) The current demand for a new restaurant facility in this location is somewhat uncertain. However, the proposed development of the new ballpark and UCSF in Mission Bay should increase the potential for a restaurant dramatically. The Port anticipates this demand increasing in the next three to five years. The deferral of the restaurant until this time will coincide with the future potential development in the area.

The staff recommends that the scope of the construction project to be put out to bid include the double lane boat ramp, gangway and floats providing disabled access, shoreline improvements and public access, landscaping lighting and site improvements, and a 20 space trailer boat parking lot. Construction is anticipated to start late this summer or early fall.

The design of the cafe/bait shop structure and dining deck will be completed now, but bid later as a second phase of the project after an operator has been selected and adequate funding has been identified and secured.

Prepared by:
Paul Osmundson, Director of Planning and Development

PORT OF SAN FRANCISCO

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MEMORANDUM

April 17, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie G. Lee
Hon. Preston Cook
Hon. James Herman

FROM: Douglas F. Wong
Executive Director

SUBJECT: Authorization to enter into an Expense Payment Agreement with China Basin Ballpark Company, and supplemental appropriation to pay expenses of $477,000

DIRECTOR'S RECOMMENDATION: APPROVE RESOLUTION.

In March of 1996, the voters of the City and County of San Francisco approved Proposition B which authorized a proposed development on Port property for a new ballpark on an approximately 12.5 acre site in China Basin. On December 20, 1996, the Port Commission approved Resolution No. 96-138, endorsing the principles of a non-binding term sheet setting forth the basic agreements of the development.

The term sheet includes a provision that CBBC may pay for certain costs to the City and Port relating to its assembly or delivery of the site or for City transaction costs up to $500,000, to be reimbursed to CBBC through certain rent credits.

As part of its costs, the Port needs to fully vacate Pier 46 in order to deliver the site under the contemplated ground lease. This requires the relocation of the maintenance department from Pier 46B, on an accelerated scheduled, as well as the relocation of approximately 12 commercial tenants from Pier 46A. The Port has agreed to pay for certain moving costs associated with the relocation of the commercial tenants. In addition, the Port

needs to make improvements to Pier 48 and to Pier 50A, 50B and 50C in order to relocate tenants to these facilities. Improvements to Pier 48 include removal of hazardous material and design of tenant improvements. The improvements to Pier 50A, 50B and 50C include new roofs, sprinklers, and upgraded ADA accessible bathrooms. Pursuant to an October 1996 memo, the fire Marshall has ruled that the Port must put sprinklers and demising walls into the sheds at Pier 50 in order to meet current code.

CBBC has now agreed that it will pay for certain of these Port transaction costs in the amount of $477,000 in advance of the proposed ground lease and other documents, subject to the terms and conditions of the Agreement. A copy of the Agreement is attached hereto. The material provisions of the Agreement include the following:

- CBBC will pay Port $95,400.00 on or before May 1, 1997, $143,100 on or before July 1, 1997, and $238,500.00 on or before October 31, 1997, for a total of $477,000 (the "CBBC Payment").

- The CBBC Payment is non-refundable if the Port and CBBC fail to execute a binding ground lease for the premises.

- The Term Sheet will be modified to provide that if Port and CBBC enter into a ground lease for the ballpark project, then the Port will reimburse CBBC $125,000 in rent credits against base rent on February 1, 2000 and $125,000 in rent credits against base rent on June 1, 2001, for a total rent credit amount of $250,000.

- The CBBC Payment and the Port rent credits payable under this Agreement replace in its entirety the transaction cost advance of up to $500,000.00 and the corresponding rent credits contemplated under the Term Sheet.

As part of this Resolution, the Port Commission is also being asked to authorize the Executive Director to seek approval from the Board of Supervisors for a supplemental appropriation for $477,000, to be applied toward the cost of tenant relocation required for site delivery.

Prepared by: Douglas F. Wong, Executive Director

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-25

WHEREAS, Section B 3.581 of the City Charter empowers the Port Commission of San Francisco (the "Commission") with power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, in March of 1996, the voters of the City and County of San Francisco approved Proposition B which established a special zoning district permitting a proposed development on Port property for a new ballpark for major league baseball on an approximately 12.5 acre site in China Basin; and

WHEREAS, On December 20, 1996, the Port Commission approved Resolution No. 96-138, endorsing the principles set forth in a non-binding term sheet setting forth the basic agreements of the development; and

WHEREAS, The term sheet includes a provision that CBBC may advance payment for certain costs to the City and Port relating to its assembly or delivery of the site or for City transaction costs up to $500,000, to be reimbursed to CBBC through certain rent credits; and

WHEREAS, the Port has estimated that in the near future, it will incur significant costs relating to the relocation of Port tenants, because the Port must vacate Pier 46 to deliver the site contemplated by the ground lease which requires relocation of 12 commercial tenants and the Port's maintenance facility, on an accelerated schedule, including payment of relocation costs and construction of new improvements; and

WHEREAS, CBBC has agreed that it will pay for certain Port transaction costs in advance of the proposed ground lease and other documents, subject to the terms and conditions of the Expense Payment Agreement, a copy of which is on file with the Secretary of the Port Commission for Item No. 8A, for its meeting of April 22, 1997; and

WHEREAS, the Port Commission must approve a supplemental appropriation, subject to approval by the Board of Supervisors, to expend the $477,000 payment from CBBC; and

WHEREAS, the relocation of the Port's maintenance facility is categorically exempt from the California Environmental Quality Act ("CEQA") under Section 15301 of the CEQA Guidelines, in that the relocation of the maintenance facility involves a move to an existing structure located at Pier 50, and the repair, maintenance, and minor alteration of Pier 50 for the maintenance facility involves negligible or no expansion of use beyond that previously existing, including restoration and rehabilitation of Pier 50 to meet current standards of public health and safety, and interior and exterior alterations involving interior partitions, plumbing and electrical conveyances; and

WHEREAS, the relocation of the Port's tenants is categorically exempt from CEQA, under Section 15301 of the CEQA Guidelines, in that the Port is moving such tenants to existing Port structures that are undergoing minor interior or exterior alterations involving such things as interior partitions, plumbing and electrical conveyances, and involve negligible or no expansion of use beyond that previously existing; and

WHEREAS, the relocation of the Port's tenants is also exempt from CEQA under Section Guidelines Section 15061(b)(3), which exempts activities for which there is no possibility that the activity in question may have a significant effect on the environment. The tenant relocations subject to expenditure under the supplemental appropriation authorized by this resolution do not involve physical changes to the relocation sites other than minor repairs, and do not involve substantial intensification of use. Such relocations fall within the Certificate of Determination of Exclusion from Environmental Review, issued on March 21, 1996, by the San Francisco Planning Department, Office of Environmental Review (a copy of which is on file with the Secretary of the Port Commission), which exempts from CEQA Port agreements with tenants who continue an existing land use, with no substantial physical changes to the site or substantial intensification of use, because for such projects it can be seen with certainty that there would be no significant environmental impacts; and

WHEREAS, the relocation of the Port's tenants and the maintenance facility are also statutorily exempt from CEQA under Senate Bill No. 181, signed by the Governor on April 15, 1997, which exempted from CEQA the relocation of occupants or uses from real property of the Port of San Francisco to other real property of the Port of San Francisco if both the following criteria are met: (1) the real property is proposed to be used for an open air ballpark for

major league baseball, and is located in a special zoning district permitting, or conditionally permitting, that use, which zoning district was established pursuant to a ballot measure approved by the voters of the city and county in which the property is located, and (2) the relocation activities if considered independently of the proposed ballpark use of the property would be exempt from this CEQA; and

WHEREAS, as stated in the above recitals of this Resolution, the proposed relocation of Port tenants and the maintenance facility meet both criteria of SB No. 181; now, therefore, be it

RESOLVED, that the Port Commission authorizes the Executive Director to enter into the Expense Payment Agreement, substantially in the form on file with the Secretary of the Port Commission for Item No. 8A, for its meeting of April 22, 1997, and to take such further action as is necessary to further the intent of the Expense Payment Agreement; and be it further

RESOLVED, that the Executive Director is hereby authorized to seek Board of Supervisor's approval of a supplemental appropriation for $477,000 to pay for relocation of Pier 46 tenants.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 22, 1997.

_____
Secretary

FORM 0.10 (REVISED 1-12-92)

REQUEST FOR SUPPLEMENTAL APPROPRIATION

Department: 39 Port of San Francisco DIVISION: Executive DATE: April 8, 1997

To the Mayor: Request is hereby made for supplemental appropriation from the following appropriation(s) or fund(s) in the amount(s) indicated:

APPROPRIATION NUMBER		DESCRIPTION OF APPROPRIATION OR FUND	AMOUNT
FD/GROUP FD DEPT-DIV-SEC INDEX	5P/AAA/AAA PRT99 390000	Expense Reimbursement	$477,000

to the credit of the following appropriation(s) or fund(s) in the amount(s) indicated:

APPROPRIATION NUMBER		DESCRIPTION OF APPROPRIATION OR FUND	AMOUNT REQUESTED	AMOUNT APPROVED - MAYOR
FD/GROUP FD DEPT-DIV-SEC INDEX CHAR/SUB-OBJ	5P/AAA/ACP PRT99 392601 06029	CPO647-02 Tenant Relocation Costs	$477,000	

There are no surpluses in any of this department's appropriations available for transfer for the requested purpose(s). Complete detail as to the necessity for THIS appropriation is stated below:

APPLICABLE BOXES MUST BE CHECKED.

☐ This request includes capital projects (s.o. 2020 or 2030); a separate copy has been sent to the Chair, Capital Improvement Advisory Committee

☐ These funds have not been previously requested.

☐ These funds were previously requested by : ☐ Supplemental Appropriation or

☐ Budget Estimate and were ☐ reduced or ☐ denied by: ☐ The Mayor, or ☐ The Board of Supervisors

CERTIFIED AS TO FACTS AND AMOUNTS AS ABOVE STATED, AND

RECOMMENDED: _____ (Department Head)
Douglas F. Wong, Executive Director

APPROVED: _____ (C.A.O., Board or Commission)

Recorded Controller's Budget Division

By: _____ Date: _____ Request No. _____

FOR MAYOR'S USE

To the Controller:
The above request meets with my approval, as indicated above. You are hereby requested to prepare the necessary appropriation ordinance.

APPROVED: WILLIE LEWIS BROWN, JR. By: _____ Date: _____

EXPENSE PAYMENT AGREEMENT

THIS EXPENSE PAYMENT AGREEMENT ("Agreement") is entered into as of this ___ day of April, 1997, by and between the **City and County of San Francisco** ("City"), **acting by and through its Port Commission** ("Port"), and the **China Basin Ballpark Company, L.L.C.** ("CBBC"), a limited liability company, based on the following facts, intentions and understandings of the parties:

RECITALS

A. Port and CBBC are in the process of negotiating a ground lease and related agreements appropriate to facilitate development and operation of an open air waterfront ballpark and complementary improvements, known as "Pacific Bell Park."

B. The City and CBBC have entered into a term sheet dated as of December 20, 1996 (the "Term Sheet"), which sets forth understandings of the parties related to the basic financial terms of a fair market value lease by the City, through its Port, to CBBC, of real property bounded generally by the easterly line of Third Street, the southerly line of King Street, the easterly line of Second Street and China Basin Channel. While the Term Sheet is the basis for the parties' good faith negotiations of the ground lease and related documents, it is not a binding agreement, and it is specifically recognized that any binding agreement is subject to the completion of the California Environmental Quality Act (CEQA) review process, other public review and hearing processes and all applicable governmental approvals.

C. The Term Sheet provides that CBBC may advance payment for certain costs to the City and Port relating to its assembly or delivery of the site or for City transaction costs, up to $500,000 to be reimbursed to CBBC through certain rent credits.

D. The Port will incur significant costs relating to the ballpark project.

E. In consideration for the Port's diligent efforts and expenses incurred in connection with the ballpark project, CBBC has agreed that it will pay for certain Port transaction costs in advance of the proposed ground lease and other documents, further subject to the terms and conditions of this Agreement.

NOW, THEREFORE, the parties hereto agree as follows:

AGREEMENT

1. **Payments by CBBC.** CBBC shall pay to Port $477,000.00, in the manner described in this Section 1 ("CBBC Payment"). CBBC shall pay Port $95,400.00 of the CBBC Payment on or before May 1, 1997. CBBC shall pay Port $143,100 of the CBBC Payment on or before July 1, 1997. CBBC shall pay Port the remaining $238,500.00 of the CBBC Payment on or before October 31, 1997. The CBBC Payment payable under this Agreement is non-refundable if the Port and CBBC fail to execute a binding ground lease for the Premises.

2. **Relationship With Term Sheet.** The Term Sheet will be modified to provide that if Port and CBBC enter into a ground lease for the ballpark project, then the Port will reimburse CBBC for a total of $250,000 of the CBBC Payment, payable through rent credits against base rent as follows: Port will reimburse CBBC $125,000 in rent credits on February 1, 2000 and $125,000 in rent credits on June 1, 2001. Subject to Section 3 of this Agreement, the CBBC Payment and the Port rent credits payable under this Agreement replaces in its entirety the transaction cost advance of up to $500,000.00 and the corresponding rent credits contemplated under the Term Sheet.

3. **Negotiation of Lease.** The parties acknowledge that the CBBC Payment does not commit the Port or the City to enter into the proposed ground lease or any related agreement, and is being provided by CBBC merely to facilitate and expedite the negotiations. No legal obligations will exist under Section 2 of this Agreement unless and until the parties have negotiated, executed and delivered mutually acceptable agreements following all required public review and hearing processes, including without limitation such review as may be required under CEQA, and subject to all applicable governmental approvals, as further described in the last paragraph of the Term Sheet.

4. **Attorneys' Fees** In the event of any action or proceedings at law or in equity between the Port and CBBC to enforce any provision of this Agreement, the unsuccessful party to such litigation shall pay to the prevailing party all costs and expenses as determined by the court, including reasonable attorney's fees, incurred therein by such prevailing party; and if such prevailing party shall recover judgment in any such action or proceeding, such costs, expenses and attorney's fees shall be included in and as a part of such judgment. For purposes of this Agreement, reasonable fees of attorneys of the Office of City Attorney shall be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience (calculated by reference to earliest year of admission to the Bar of any State) who practice in the City in law firms with approximately the same number of attorneys as employed by the Office of City Attorney.

5. Captions Used. Captions or titles utilized in the terms and conditions of this Offer are used for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

6. Time is of the Essence. Time is of the essence of each provision of this Agreement.

7. MacBride Principles-Northern Ireland. City urges companies doing business in Northern Ireland to move towards resolving employment inequities and encourages such companies to abide by the MacBride Principles. City urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

8. Tropical Hardwood Ban. City urges CBBC not to import, purchase, obtain, or use for any purpose, any tropical hardwood or tropical hardwood product.

9. Conflict of Interest. CBBC states that it is familiar with provisions of Section 8.105 of the Charter of City, and Section 87100 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provisions.

WHEREFORE, this Agreement was executed by the parties hereto on the date set forth hereinabove.

"Port"
CITY AND COUNTY OF SAN FRANCISCO
acting by and through its
Port Commission

_____

By: Douglas F. Wong
Executive Director

Dated:_____

"CBBC"
China Basin Ballpark Company, L.L.C., a limited liability company

_____

By:

Dated:_____

Port Commission Resolution No. _____

Approved as to Form:
LOUISE H. RENNE
City Attorney

By:_____
Deputy City Attorney

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
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Cable SFPORTCOMM
Writer

MEMORANDUM

April 22, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie G. Lee
Hon. Preston Cook
Hon. James Herman

FROM: Douglas F. Wong
Executive Director

SUBJECT: Approval of 1997/98 Executive Director Salary

DIRECTOR'S RECOMMENDATION: APPROVE THE 1997/98 COMPENSATION FOR THE EXECUTIVE DIRECTOR

Charter Section B3.581(H) grants the Port Commission the exclusive authority to set the compensation (salary and benefits) of the Executive Director.

In recent years it has been the Port Commission's practice to increase the salary and compensation of the Executive Director in accordance with the increases granted to officers and employees of the City and County of San Francisco who are represented by the Municipal Executives Association ("MEA"), the organization that represents most of the City's department heads. The current agreement between the City and MEA is a three-year agreement expiring on June 30, 1998. The contract provides for an increase of $900.00 per year beginning July 1, 1997 for the Cafeteria Benefit Plan, bringing the total City contribution for the flexible benefits to $2,700 per year. The contract also provides that the City will pick-up an additional 2.5% effective July 1, 1997 which will result in the City paying the employee's full share of the cost of retirement benefits.

THIS PRINT COVERS CALENDAR ITEM NO. 8B

The current agreement that did not provide for a general salary increase for MEA members n Fiscal Year 1996-97, but additional monies for benefits were provided. The Executive Director's compensation was increased to provide the same benefit increase.

The agreement with MEA further provided that salaries could be adjusted, retroactive to July 1, 1996, to reflect the findings of a Classification and Compensation study to be conducted as agreed upon by the City and the MEA. In the Port Commission action of June 25, 1996, provision was made to adjust the Executive Director's compensation in 1996/97 in accordance with the adjustment for employees and officers represented by MEA.

While the classification and compensation study has not been conducted, the arbitrator designated to review the contract has ruled for a 2% increase retroactive to July 1, 1996 for employees and officers represented by MEA. Comparable adjustment of the Executive Director's salary would result in an annual increase of $2,652, bringing the annual salary to $135,276. Since the current Port Director has not been employed for the full Fiscal Year, the salary increase would be effective as of his starting date with the Port, December 23, 1996.

Finally, the collective bargaining agreement between the City and the MEA provides for an additional Pay-For-Performance increase of 0-4%. It is anticipated that most increases will be approximately 2% and that is the amount that the staff has budgeted for such increases for employees and officers represented by the MEA. An additional 2% increase would result in a total salary effective July 1, 1997 of $137,982.

In view of the above, It is recommended that the Port Commission adopt the following proposed changes in the compensation of the Executive Director:

<u>For Fiscal Year 1996-97:</u>

- 2% salary increase retroactive to July 1, 1996

<u>For Fiscal Year 1997-98</u>

- Additional retirement contribution of 2.5% effective July 1, 1997
- $900 paid at $75 per month for the Cafeteria benefit plan effective July 1, 1997
- 2% Pay-For-Performance increase effective July 1, 1997.

The Controller's Office has informed the Port that the Port Commission must take action no later than this meeting to allow the Port's budget to be amended before it is transmitted from the Mayor's Office to the Board of Supervisors.

Prepared by: Ben Kutnick

PORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97 - 27

WHEREAS, section B3.581(h) of the Charter grants the Port Commission with the exclusive authority to set the compensation (salary and benefits) of the Executive Director; and

WHEREAS, the Port has surveyed the salaries of the executive directors of eight west coast ports; and

WHEREAS, the average salary the eight port directors surveyed is $157,425, which is 18.7% greater than the Executive Director of the Port of San Francisco; and

WHEREAS, the current salary of the Executive Director of the Port of San Francisco is $132,624; and

WHEREAS, the Executive Director has traditionally received the same benefits that are granted to employees represented by the Municipal Executives Association;

RESOLVED, the Port Commission shall increase compensation for the Executive Director as set forth below:

<u>For Fiscal Year 1996-97:</u>

- 2% salary increase retroactive to July 1, 1996

<u>For Fiscal Year 1997-98</u>

- Additional retirement contribution of 2.5% effective July 1, 1997
- $900 paid at $75 per month for the Cafeteria benefit plan effective July 1, 1997
- 2% Pay-For-Performance increase effective July 1, 1997.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 22, 1997.

_____

Secretary

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
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Cable SFPORTCOMM
Writer

MEMORANDUM

April 22, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie G. Lee
Hon. Preston Cook
Hon. James Herman

FROM: Douglas F. Wong
Executive Director

SUBJECT: Revisions to FY 1997/98 Operating Budget

The FY 1997/98 Operating Budget was approved by the Commission on February 11, 1997. Staff recommends revenue and expense revisions for the FY 1997/98 operating budget summarized as follows:

	Feb 11 Budget	Revised Budget	Increase/ Decrease
Revenue	$35,100,712	$36,857,712	$1,757,000
Expense	34,480,250	36,441,340	1,961,090
Surplus	$ 620,462	$ 416,372	$ (204,090)

These changes result in a revised FY 1997/98 Operating Budget as follows:

	1996/97	1997/98	Increase/ Decrease	Percent
Revenue	$33,944,921	$36,857,712	$2,912,791	8.6%
Expense	33,271,177	36,441,340	3,170,163	9.5%
Surplus	$ 673,744	$ 416,372	$(257,372)	(38.3%)

THIS PRINT COVERS CALENDAR ITEM NO. 8C

Revenue Revisions

Additional revenue of $1,757,000 has been projected for the FY 97/98 operating budget. Revised revenue is as follows:

- Cargo revenue decreases $243,000 from $1,779,000 to $1,536,000 resulting from:
  - $125,000 decrease in wharfage revenue due to increased payments to SSA. Payments to SSA are made as a reduction of wharfage revenue. The SSA payment is projected to be $375,000 as compared to $250,000 previously estimated. This revision is based on payments made to SSA this fiscal year to date;
  - $118,000 decrease in cargo wharfage, demurrage, rent and crane rental revenue based on revised estimates of cargo volume experienced this fiscal year to date;

- Commercial rent revenue increases $1.2 million from $22,577,000 to $23,777,000 due to a lease with the Giants;

- Parking fine revenue increases $1.2 million from $3,424,000 to $4,624,000. Parking fine revenue is new in FY 97/98;

- Marketing revenue decreases $400,000 from $625,000 to $225,000 resulting from:
  - $350,000 decrease in filming revenue due to the relocation of the Port's Maintenance department to Pier 50 Shed D;
  - $50,000 decrease in other filming revenue based on current year to date information.

Expense Revisions

Additional expense of $1,961,090 has been projected for the FY 97/98 operating budget. Revised expense is as follows:

- City Wide Overhead increases $183,420 from $500,000 to $683,420 based on revised estimates from the Controller's Office;

- Capital Outlay increases $436,500 from $205,752 to $642,252 resulting from:
  - $395,500 for 19 vehicles. These vehicles represent the third year of a seven year replacement schedule. The vehicles include:

Vehicle	Cost	Usage	Existing Vehicle	Mileage
Truck-mini pick-up	$12,500	Maintenance	1984 Chevrolet	84,869
Truck-mini pick-up	12,500	Maintenance	1984 Chevrolet	56,955
Truck-mini pick-up	12,500	Maintenance	1988 Chevrolet	19,919
Truck-mini pick-up	12,500	Maintenance	1988 Chevrolet	90,248
Truck-mini pick-up	12,500	Maintenance	1990 Ford	105,546
Truck-mini pick-up	12,500	Maintenance	1984 Chevrolet	76,844
Truck-mini pick-up	12,500	Maintenance	1984 Chevrolet	77,259
Truck-1/2 ton pick-up	21,000	Maintenance	1975 Dodge	96,485
Truck-3/4 ton pick-up	22,500	Maintenance	1978 Dodge	96,485

Truck-3/4 ton pick-up	22,500	Maintenance	1985 Ford	120,270
Truck-3/4 ton pick-up	22,500	Maintenance	1971 Int'l	179,094
Truck-3/4 ton pick-up	22,500	Maintenance	1978 Dodge	180,850
Truck-1 ton pick-up	23,000	Maintenance	1970 Ford	138,240
Truck-1 ton pick-up	23,000	Maintenance	1984 Ford	79,974
Truck-boom	75,000	Maintenance	1969 Ford	74,357
Auto-mid-size	19,000	Admin car pool	1984 Ford	36,050
Auto-mid-size	19,000	Admin car pool	1984 Olds	49,561
Auto-mid-size	19,000	Port Real Estate	1988 Chevrolet	81,358
Auto-mid-size	19,000	Port Real Estate	1982 Chevrolet	52,869
	$395,500			

- $41,000 for new equipment to be leased. A total of $178,770 of equipment will be leased for 5 years, assuming a 5% interest rate. Leasing will enable Port Maintenance to obtain this equipment that otherwise would remain unfunded. Leased equipment includes:

Item	Cost	Justification
Aerial man lift	$33,000	Replacement lift for existing truck
Asphalt roller	16,500	To replace 12 year old roller
Boom	12,000	New boom required by BCDC to contain toxic spills
Heavy-duty boat	44,000	Replacement for light-duty boat in need of repair
Orbital Tool	19,020	New tool for quicker repair of under pier pipes
Generator	43,400	Replacement trailer-mounted emergency generator
Auto Diagnostic Equip	10,850	New equipment to meet current smog standards
	$178,770	

- Debt Service increases $1.3 million from $7,411,841 to $8,711,841 for a Maintenance Facility Project loan;

- Services of Other Departments increases $41,170 from $4,861,845 to $4,903,015 resulting from:
  - $23,270 for additional work order expense for the Human Rights Commission; and
  - $17,900 for work order expense for the new Department of the Environment for the City-wide integrated pest management program.

One additional revision to the expense budget that has no financial impact is for professional services. Professional services expense for janitorial service is projected to decrease $101,000. This is offset by a projected increase of $101,000 for increased security on the southern Waterfront.

Prepared by: Benjamin A. Kutnick

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-28

WHEREAS, the Port Commission approved the FY 97/98 operating budget on February 11, 1997; and

WHEREAS, staff has developed revised revenue and expense projections; and

WHEREAS, additional operating revenues are projected in the amount of $1,757,000; and

WHEREAS, additional operating expenses are projected in the amount of $1,961,090; and

WHEREAS, the revised operating budget includes projected revenues of $36,857,712; and

WHEREAS, the revised operating budget includes projected expenses of $36,441,340; and

WHEREAS, the revised operating budget includes projected surplus of $416,372; therefore, be it

RESOLVED, that the Port Commission approves the revised fiscal year 1997/98 operating budget as presented by staff.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 22, 1997.

_____
Secretary

CITY & COUNTY OF SAN FRANCISCO
PORT COMMISSION

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MINUTES OF THE MEETING
APRIL 22, 1997

1. ROLL CALL

The meeting was called to order by Commission President Michael Hardeman at 4:06 p.m. The following Commissioners were present: Michael Hardeman, Denise McCarthy, Frankie Lee, Preston Cook and James Herman.

2. APPROVAL OF MINUTES - March 25, 1997 Meeting

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the minutes of the meeting were adopted.

Commissioner Herman inquired if the Commission Room could be outfitted with microphone system/speakers as it is impossible to hear in the room. Mr. Kutnick replied that traditionally microphone is used only at the podium. Microphones can be provided for the Commissioners. Commissioner Herman suggested providing one for the Commissioners so that the audience and the Commissioners can hear each other. Mr. Kutnick replied that he will look into providing a microphone system for the Commission Room.

3. EXECUTIVE

A. Executive Director's Report

Mr. Wong stated that he brings forth the resolution awarding Commissioner Cook the order of Maritime Merit with the rank of Commander. Commissioner Preston Cook has served, with distinction, on the San Francisco Port Commission since his appointment in 1993, including two years as its President.

The Port Commission has benefited greatly from his previous experience as a consultant for the California Senate Select Committee on the Maritime Industry and as a principal at TRI Realtors.

He has provided the Commission with a strong strategic direction and knowledge at a critical juncture in the Port's history that resulted in a rejuvenated commercial energy and significant improvements in the Port's financial position.

The Port Commission and staff expressed their appreciation, best wishes and sincerest gratitude to Commissioner Preston Cook. To honor him for his invaluable, unselfish and lasting contributions to the Port Commission and the waterfront

community, staff recommends that he be awarded the Order of Maritime Merit, with the rank of Commander. Mr. Wong presented Commissioner Cook a medal and noted that a plaque is also forthcoming.

B. Commendation for Commissioner Preston Cook. (Resolution No. 97-34)

ACTION: Commissioner McCarthy moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

Commissioner Cook indicated that he was surprised by the unanimous vote. He mentioned that being a Port Commissioner is a great experience. He has served the Port for the last four years, two of which as President. It has been a life time experience which he will always remember. He noted that what made it so great was a lot of things were done in the last four years. The leasing department was something that he took on because his interest lies in that field. There were tremendous amount of gains in the department. He has received a lot of feedback from the brokerage community and citizens who are happy with the way the Port has handled leasing -- negotiated new tenants and renegotiated existing tenants. He was pleased that it has been done in an even and very professional way. He hopes that with Fei Tsen at the helm, it will continue in that form.

Commissioner Cook stated that in the last few years, we have created an opportunity to bring this Port into the future and utilized our lands in a way that will benefit all of San Franciscans. The only negative comment he had was the our difficulty with cargo. Everyone has been disappointed that the cargo has not worked as well as it can work. He, however, thinks there is a future for some shipping in the City. The new Executive Director and the Commission are very supportive and the opportunities will arise for other shipping to arrive in the City in conjunction with some development that will occur in the northern waterfront. Along with that development, we have set the groundwork, through the Waterfront Plan, that everyone at the Port has been so involved with and so supportive to provide some development along with open space and the opportunity for more San Franciscans to use the waterfront.

When he first joined the Commission, his goal was to ensure that it is a well-run organization. He thinks it is well run now than it was four years ago. The Port is making more money now than it has four years ago. The Port has a great staff. A lot of the older members that he has had a chance to work with namely Julie, Ben, Diane and many others have done an incredible job. He is proud of the employees of the Port for the amount of time and energy they put in to ensure things are done right. He then thanked everyone.

Commissioner McCarthy thanked Commissioner Cook for his work not only at the Port, but the City in general. She also indicated that she will miss her partner in the Port Commission meetings.

Commissioner Lee stated that when he first joined the Port Commission,

Commissioners Cook and Halsted were his mentors. He worked very closely with Commissioner Cook as he was the Vice President the second year he joined the Commission. Commissioner Cook is most ethical, honorable man. He always puts the Port first and himself second. He sincerely believed that Commissioner Cook is the reason the Port has turned around in fiscal management and in the leasing department. He enjoyed working him and they'll be friends from now on.

Commissioner Herman indicated that he was a bit disappointed, given the sometimes adversary relationship between he and Commissioner Cook, that he didn't mention the joy he got from it. It brought life to the Commission as well as new ideas. The fact that he disagrees with most of them didn't matter at all. He thought that Commissioner Cook is an extraordinarily bright man and is not with total joy that he sees him leave but wishes him the very best of luck in whatever transpires in his life. He enjoyed the opportunities that he had to correct many of Commissioner Cook's errors and should the occasion arise again, on a friendly basis, he will pursue the same objective. He has great delight in the discussions they had, sometimes not so friendly but more often than not, they were. He shared the best wishes from everybody on the Commission to Commissioner Cook. He extended an invitation to Commissioner Cook, whenever he's bored, to come to the Commission and have a good discussion that will at least be, if not enlightening, entertaining.

Commissioner Hardeman stated that Commissioner Cook is always representing the best interest of the Port. His expertise, particularly in real estate, was invaluable. Through the previous director, he has mentioned a couple of times that beyond the call of duty, Commissioner Cook has lent his expertise. He echoed Commissioner Lee's comments that Commissioner Cook's contribution to the Commission was invaluable. He thanked him for all his work.

4. MARITIME

A. Authorization to initiate the process to extend the Foreign Trade Zone by creating a subzone at Chevron Shipping Corporation's Long Wharf located at Richmond, CA (Resolution No. 97-33)

Mr. Peter Dailey, acting Maritime Director, stated that the resolution before the Commission will authorize the Executive Director to initiate the process to submit a foreign trade subzone application for Chevron products company in Richmond, CA refinery to Foreign Trade Zone Board (FTZB) in Washington, D.C. The Chevron Products Company, a subsidiary of S.F. Bay Chevron Corporation, late last year approached the Port, grantee of the Foreign Trade Zone #3, to amend its zone plan to include a special process, subzone site for refining, storage transfer, petroleum and petroleum derivatives. Foreign Trade Zones were established by the U.S. Congress in 1934 to stimulate economic development in communities by providing businesses with facilities for conducting international trade activities. Designation as a foreign-trade zone is granted by the Foreign Trade Zones Board within the U.S. Department of Commerce. Zones must be operated as a public utility and applications are granted to state or local government entities, port or airport authorities, economic

development agencies and not-for-profit corporations.

Foreign or domestic merchandise may enter a foreign trade zone without a formal Customs entry or the payment of Custom duties or government excise taxes. While in the zone, merchandise may be sampled, relabeled, repackaged, assembled, processed or manufactured. If the final product is exported from the United States, no U.S. Customs duty or excise tax is levied. Subzones are special purpose type ancillary zone authorized by the FTZB through grantees of public zones, such as the Port of San Francisco, for operations that cannot be accommodated within an existing zone when it can be demonstrated that the activity will result in significant public benefit. Chevron has several subzones established in the United States including Hawaii and Los Angeles, where they refine, blend, store and transfer petroleum and petroleum derivatives and other related products and ship intermediate and finished products for export and domestic market consumption. The Bay Area subzone will be used for the same purpose and, in doing so, will allow Chevron to realize economic benefits through tariff savings on the refining process, deferred duty for products in storage and duty elimination for exported products.

For example, Chevron can import crude from Malaysia, bring it to their subzone in Richmond. Through the subzone apparatus, they can refine this crude oil into a jet fuel or marine vessel fuel and then sell it to an airline or a shipping company at a lower cost, thus benefiting the Northern California marine and air transport industries. Such benefits will increase Chevron's competitiveness with its foreign competitors and domestic refiners who already have or are pursuing subzone status. Operating under subzone status will strengthen Chevron economically while furthering efforts to retain and potentially expand local jobs, thereby benefiting the local Bay Area economy. Chevron Corporation employs close to 10,000 people in the Bay area, with almost 1,500 of those being full-time refinery employees in Richmond.

All legal documents, applications, and administrative reports pertaining to this subzone application will be prepared by Chevron at their expense. All costs associated with running and managing the zone will also be assumed by Chevron. As grantee, the Port of San Francisco will receive an annual fee of $5,000 which is in accordance with Foreign Trade Zone Board's rules and regulations which state that fees charged by the grantee should be "the value of actual services rendered by the zone grantee or operator and reasonable out-of-pocket expense."

Commissioner Herman inquired if Chevron Corporation have been appointed to operate the Foreign Trade Zone. Mr. Dailey replied that Chevron has not been appointed but rather Chevron has approached the Port to extend its foreign trade zone grant to their facility in Richmond, CA. This has nothing or very little to do with the foreign trade zone in the northern waterfront. This has no impact on their operation at the northern waterfront. Mr. Dailey indicated that the foreign trade zone grant #3 on the northern waterfront will retain its current position. Subzone is a transaction where a manufacturing process has to take place in an area outside of its normal zone. It cannot receive petroleum products on the northern waterfront but it can at the Richmond refinery. Zones must be operated as a public utility and operate in the

general good of Northern California. As a San Francisco based company, Chevron came to the Port for help in obtaining this economic benefit for the region and for their company.

Commissioner Herman stated that he is not convinced that Chevron does the Port any good or that the issue belongs here. He deferred the judgement to other Commissioners.

Mr. Wong indicated that Mr. Ed Osgood will be meeting with staff to discuss the matter. Mr. Dailey interjected and indicated that Chevron USA will, at one point during this process, appoint an operator to operate and do most of the FTZ paperwork and report to Washington D.C. Chevron has indicated that the operator will most likely be Mr. Osgood and his company. They, however, have not yet entered into an agreement but are working together on this application. In response to Commissioner Herman's inquiry about Mr. Osgood's appointment, Mr. Dailey responded that it does not necessarily have to be them. Chevron does not even have to have an operator as they are able to operate it. They however, indicated that they are looking to enter into an arrangement with a company to take care of the paperwork for them with the Washington, D.C. Foreign Trade Zone Board. Commissioner Herman indicated that with 10,000 employees, they should be able to do it themselves or ask the Port to make the appointment since it is the territory of the Port of San Francisco under whose management the FTZ is handled.

Commissioner Herman reiterated that Chevron has no business appointing a Foreign Trade Zone operator or the operator of the Foreign Trade Zone in San Francisco. The company that was appointed just simply abandon this Port without the courtesy of reporting to the Port.

Commissioner McCarthy asked for an explanation of the process and whether the Port is restricted in the numbers it can give out. Mr. Dailey replied that the FTZ apparatus is somewhat cumbersome and difficult to explain. It operates under the idea that we try to generate economic benefit to the region. There are FTZ in Oakland, San Francisco, San Jose, Stockton and Sacramento. We have the ability to apply for a subzone application to the FTZ Board and are requesting to initiate the process. The FTZ Board in D.C., under the direction of the Department of Commerce, will review the status. The Port has only asked once before for a subzone. There is a seal in the amount that we can do but it has been used very limited in the past. The FTZ Board will do a thorough review and report back to the Port if they find that the operation does not generate enough economic benefit to the region to warrant the permit of this request.

In response to Commissioner Lee's inquiry as to who receives the benefits, Mr. Dailey replied that Chevron will obviously receive the economic benefits. They will have tariff savings, deferred duty and elimination of some duty in certain exported products. However, according to the FTZ application, since economic benefit will be realized by Chevron, they have to show to the Board that economic benefit to the region will also be derived. If they cannot do so, their application will not be

approved. There is, however, an economic benefit to fuel buyers e.g. imported crude that is refined and put on a foreign airplane or ship that could be sold to marine or air companies at a lesser price. According to Chevron, they would be able to retain and potentially expand the local job base. They have one of the bay area's largest employees. Commissioner Lee hen inquired about the benefit to the Port. Mr. Dailey replied that the monetary rewards to the Port are slim.

Commissioner Lee inquired if the Port is giving Chevron an unfair advantage to their competitors. Mr. Dailey replied that this will not give Chevron an unfair advantage because he believed that a lot of the competitors are looking for the same subzone status in different areas. They compete against other international businesses. This will put them on a level playing field with those competitors as there are five other subzones in the Bay Area. Commissioner Lee inquired if all of Chevron 's competitors in the Bay Area are already enjoying the benefit of the subzone. Mr. Dailey replied that he does not know how many of them have but if they haven't they will soon be. Commissioner Lee inquired if this was offered to other entities. Mr. Dailey replied that this has not been offered to anybody. This request came to the Port late last year. The Port holds this grant for the public good. Commissioner Lee stated that he has a strong distrust of big oil companies. He wanted to ensure that we are not giving Chevron an advantage.

Commissioner Herman commented that the Port of San Francisco has never had Chevron or any other company before and it shouldn't have them now. Given the treatment received from the company who has just about left, he believes that the proposal should be rejected and proceed with some system of having a foreign trade operator selected by the Port.

Mr. Dailey indicated that the Port currently has a contract with the Foreign Trade Zone Management Company in the northern waterfront, which has another year left in its lease. There are outstanding issues pertaining to real estate transactions and the operation of the foreign trade zone. He agreed with Commissioner Herman's comments that the foreign trade zone has a lot of room for a lot more energy and vitality in San Francisco. Sooner or later, the Commission will have the opportunity to vote on the determination of the foreign trade zone apparatus on the waterfront. However, this is somewhat of a different issue. He understood and shared the Commission's concerns about foreign trade zone operation. It has been an issue of much discussion in recent months. He recommended that if the operation does not generate any good for the public, vote nay; but, if it does generate public good and employment, vote yes.

Commissioner McCarthy inquired if there is a time constraint with the application. Mr. Dailey replied that this request was made by Chevron late last year. They have been very patient in asking for the Port to work with them throughout the process. Staff is asking to initiate the process to submit the application. Commissioner McCarthy inquired if we are doing something that we will eventually be limited to do and wondered if is this going to open the doors without us having to work out how we want to deal with the foreign trade issue. Mr. Dailey replied that this will not

preclude us for future aggressive dealings in zone matters. There a number of things we can do and this will not hurt our ability to do that in the future.

Commissioner Cook stated that this is a simple issue. It does not benefit the Port very much but it does help the San Francisco headquartered company. They have been a good corporate company in San Francisco. They have approached the Port, which they didn't have to. As a public body, the Commission has the responsibility to vote affirmatively and supply a little bit of help to a company that is headquartered in San Francisco. It benefits a neighbor, the shipping industry, along with the airlines. He noted that he will vote favorably on this resolution since he does not see any downside; even though there's not much of an upside.

Commissioner Herman stated that the downside is that without notifying the Port of San Francisco, they started moving. Secondly, they owe the Port of San Francisco a significant amount of money.

Commissioner Lee clarified that two different issues are being discussed. Mr. Dailey concurred and stated that the foreign trade zone #3 was given to the City in 1948. The FTZ Management was appointed to operate the zone and that company is currently in a dispute with the Port regarding real estate related issues. The City Attorney and staff are on daily discussion regarding resolution of the problem. There is a connection in that Chevron and the FTZ Management Company may enter into an arrangement. It is the Port's desire to have an operator in that zone in the near term that will enthusiastically work hard towards generating economic benefit to San Francisco. It is an issue that will come on the horizon for the Commission about the status of foreign trade zone in the City limits.

Commissioner Hardeman inquired if Chevron has any other business at the Port. Mr. Dailey replied that other than supplying marine fuels to some of the shipping companies that call at the Port and supplying lubricants to marine services company that supply the fleet of the bay, indirectly yes. But he does not know if they directly pay the Port any money. Commissioner Hardeman inquired if Mr. Dailey still recommends the adoption of the resolution after hearing all the comments. Mr. Dailey replied to the affirmative.

Commissioner Lee inquired if a Chevron representative is present to answer questions from the Commissioners. If the Commission votes affirmatively on the resolution, Commissioner Lee inquired about the estimated annual economic earnings that would be realized by Chevron. Mr. Marko Oksanen, FTZ Specialist from Chevron, replied that the duty savings to the Richmond refinery would be in the neighborhood of $800,000. Commissioner Lee then inquired how much of the $800,000 will be passed on to the customer. Mr. Oksanen replied that they have no figures as to how much of the $800,000 will be passed on. However, this will generate several benefits to the Bay area such as keeping employment in the area. The application shared with Port staff clearly indicates that public benefit. As far as how much of the $800,000 will be passed on the consumers in terms of lower fuel costs to airlines or vessels going overseas, he does not have the figure available. They will however give the best

possible price to air couriers that buy their jet fuel as well as marine fuels.

ACTION: Commissioner Lee moved approval; Commissioner McCarthy seconded the motion. Three of the Commissioners were in favor; Commissioners Lee and Herman cast the dissenting votes. The resolution was adopted.

5. REAL ESTATE AND ASSET MANAGEMENT

A. Approval for the Executive Director to enter into Permit to Enter with Catellus Development Corporation and/or its agent, for Environmental and Geotechnical Investigations of Port property located at Mission Bay. (Resolution No. 97-32)

Ms. Fei Tsen, Director of Real Estate and Asset Management, indicated that Catellus has requested a Permit to Enter Port property located in Mission Bay to conduct geotechnical and environmental testing of those sites. The property is part of the Port Land Transfer Agreement (PLTA) which calls for the Port to transfer certain Port parcels in Mission Bay with the Western Pacific site. This item is being brought to the Commission to make them aware of the ramifications of the testing and the Port's ultimate responsibility if Catellus does not proceed with the land transfer. Previously, Catellus had plan to test the site after the transfer occurred and when they had determined the final use for those parcels. In the last few months, Catellus, in reviewing their overall plan for Mission Bay, has decided to proceed with the testing throughout the Mission Bay area and is requesting from both the City and the Port permission to enter to conduct their investigation. The proposed entry permit is in the same form as the City's and the staff report outlines those provisions. However, this form of entry permit differs from the Port's standard form and it will have limited indemnity by Catellus. Normally, the Port requires a broad indemnity, which requires, among other things, for the permittee to be responsible for all remediation efforts for any hazardous materials discovered on site during the testing, regardless of whether the permittee is responsible for it or not. Catellus is requesting that this broad indemnity provision be limited to the release of hazardous materials to the extent that the testing is directly created or aggravated by Catellus or from its handling of disposal of the hazardous materials.

Under the PLTA, Catellus has agreed to accept the Port properties in an as-is condition and to remediate those properties up to the standards required for the proposed uses. However, should Catellus decide not to proceed with the land transfer after the results of the testing are known, the Port will bear the ultimate responsibility for the remediation. The Port, in either case, intends to pursue the various oil companies and users of the properties to recover any cost for investigation and remediation. If Catellus does not investigate the site, the Port would eventually be required by the Regional Water Quality Control Board to conduct the investigation and to pursue remediation efforts.

ACTION: Commissioner Cook moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

7. PLANNING & DEVELOPMENT

A. Informational presentation on the Pier 52 boat launch project. (Heard out of order)

Mr. Paul Osmundson, Director of Planning and Development, indicated that this project has been presented to the Commission several times over the last couple of years. The Pier 52 boat launch project involves the following major components: (1) double lane boat launch; (2) gangway and floats providing disabled access; (3) shoreline improvements and public access; (4) landscaping lighting and site improvements; (5) a cafe, bait shop and dining deck; and (6) a 20-space trailer boat parking lot.

The Port received approval for the project from BCDC on January 16, 1997. The Port has also applied for a permit from the Army Corps of Engineers which it expects to be issued shortly. The design team led by Arcus Architecture has completed 60% design drawings on the project and has prepared a construction cost estimate. However, the current construction cost estimate exceeds the amount of funding currently available for the project.

Port staff recommends that the construction of the cafe/bait shop and dining deck be deferred until a later date. Staff's recommendation is based on the following factors:

1. The current amount of funding available may not be sufficient to fund the entire project. The deferral of the cafe/bait shop and dining deck to a future phase will bring the project within the Port's current budget constraints.

2. A concentrated effort has been made to design the structure to meet the needs of a typical restaurant operator. However, Port staff believes that the eventual restaurant operator should be involved in the final design of the building. Staff proposes that an operator be selected prior to the construction of the restaurant to ensure that it will meet the specific needs.

3. The current demand for a new restaurant facility in this location is somewhat uncertain. The proposed development of the new ballpark and UCSF in Mission Bay should increase the potential for a restaurant dramatically.

Commissioner McCarthy commended staff for making a good decision.

Ms. Corrine Woods, resident of Mission Creek Harbor, Secretary of the Bayview Boat Club and also on the Mission Bay Citizens Advisory Committee, agreed with Mr. Osmundson's recommendation to go forward with the Pier 52 project. Given the current situation at Pier 52, she cannot visualize how anybody can profit from a cafe or a bait shop. She indicated that it makes more sense to get the ramp running and have it available for users than having a cafe/bait shop.

The other issue Ms. Woods was concerned about was the Giants Ballpark EIR. If the Giants ballpark has the 5,000 dedicated parking spaces and if, as mitigation for those

5,000 parking spaces, Terry Francois Boulevard is turned into 4 lanes of traffic access for ballpark parking, the use of the Pier 52 boat launch ramp would be wiped out as would the Bayview Boat Club, the Mariposa Hunters Yacht Club, and the boat storage facilities along the area. All of the maritime uses would not be effectively used. The Port should respond to the Draft Environmental Impact Report because it impacts the tenants and the Pier 52 project. They hope that the Commission will support the waterfront uses and not encourage the Giants to put the parking there or use Terry Francois Boulevard for parking access because they feel it would ruin what the Port is trying to do with Pier 52.

Ms. Woods indicated that because she is on the Mission Bay Citizens Advisory Committee, they have been working with Catellus on this project. They know that if UCSF goes in, the southern part of Mission Bay is going to be developed sooner than expected. One of the problems with the ballpark parking is using Terry Francois Boulevard. The CAC recommended that, if there has to be parking for the ballpark, Illinois Street should be improved at least on a temporary basis to take away some of the impacts on the waterfront.

Mr. Jeff Brown, indicated that he was invited to be on the Citizens Advisory Committee to help develop the guidelines for the Pier 52 project. When the committee heard that the project is in trouble because it didn't have enough money for construction, the popular response was to leave the building out and make this facility for boaters, rowers and power boaters. He concurred with Ms. Woods comments regarding the ballpark parking. The mitigation that the Giants are proposing for the parking will severely impact this project as well as the other existing maritime uses on Terry Francois Blvd. He hopes that Seawall Lot 337 is not one of the lots that the Port is looking at swapping with Catellus at this time as it will impact this project as well as Terry Francois Blvd.

Commissioner Herman indicated that there are two speakers on this subject matter and each has a negative point of view. He wondered how we can proceed in the face of that or do we ignore what they say. Commissioner Hardeman replied that the two speakers are in favor of doing the boat ramp first and hold off building the restaurant because of lack of funds. Their other issue relates to the future traffic impact at Terry Francois Blvd.

Commissioner Herman stated that the traffic presents a significant problem. He wondered if there is a proposition before the Commission to vote for or against it. Commissioner Lee clarified that this item is informational. The Commission will get another opportunity to vote. Commissioner Hardeman concurred that this item is informational and no Commission action is required at this time.

Mr. Osmundson reiterated that this is an informational item on the scope of the Pier 52 project. He indicated that his staff has also reviewed the ballpark draft EIR. They have met with the Giants and Catellus to discuss their concerns about the mitigation that both the speakers were referring to. Staff will work with the Mayor's office, Giants and Catellus to address the issue. Commissioner Herman inquired if there will

be some notation to the effect that a preliminary review is required and that these issues must be addressed as a condition of us going forward. Mr. Osmundson indicated that in recent discussions with the Giants and Catellus, it was pointed out that the existing specific plan for the Mission Bay area, an element in the City's General Plan, does identify a roadway with Terry Francois Blvd. and any changes to that would have to be dealt with in the approval of the ballpark project. It will be addressed in the "responses to comments" as part of the EIR process for the ballpark project.

With regard to the traffic issue, Commissioner Lee concurred with both of the speakers. He indicated that it does not make any sense to spend millions of dollars when the public/boaters cannot utilize the pier during the weekends. The boat ramp should be built first and when funds become available, the other amenities could then be built. Mr. Osmundson stated that one of the design elements of the boat ramps was to allow enough maneuvering room at the top of the ramp so that regardless of what happens to Terry Francois Blvd. there is enough room for boats to maneuver at the top of the ramp. He offered to work with the design team and the Port's engineering staff to look at this project carefully and come back to the Commission with a report on the traffic movements at the top of the ramp and how it would be affected by future traffic on Terry Francois Blvd. Commissioner Herman inquired how long it would take for the Commission to get a proposal so that the Commission is conversant about the whole proposition. Mr. Osmundson replied that staff will return at the next meeting with a complete briefing on both the existing and proposed traffic movements for this project and Terry Francois Blvd. Staff will clearly lay out the physical issues and have the necessary information for the Commission's consideration.

Commissioner Herman made a motion to hold in abeyance further discussion until the information is presented to the Commission so that it can make a wise and prudent decision. After further discussion, Commissioner Hardeman reiterated that staff will have the necessary information presented at the next meeting to address Commissioner Herman's concerns. Mr. Osmundson indicated that if we proceed with the design of the boat ramp project, any decision related to the roadway will be made around the design of the boat launch project. He reiterated that staff is confident that the design and alignment of the boat launch is what was agreed upon and there can be no major changes made to it. The issue of traffic flow to the ballpark parking is a matter of future consideration for the Commission and the rest of the City.

Commissioner Lee clarified that the Commission has already approved the design of the boat ramp project. Item 6D is an amendment to the contract.

6. FACILITIES & OPERATIONS

A. Authorization to award Contract No. 2636, "Pier 48 fire damage repair and reconstruction." (Resolution No. 97-29) **THIS ITEM WAS PUT OVER TO THE NEXT MEETING**

B. Approval of First Amendment, authorizing additional design services for Professional

Services Contract No. SA 39760016, "New Maintenance Facility," with Kendall Young Associates/Beverly Prior Architects, a Joint Venture. (Resolution No. 97-26)
THIS ITEM WAS PUT OVER TO THE NEXT MEETING

C. Authorization to award the professional services contract for as-needed "Soil and Groundwater Characterization and Management Services" to Tetra Tech, Inc. (Resolution No. 97-30)

Mr. Lee, Director of Facilities & Operations, requested Commission's approval to award the as-needed contract for professional services for soil and groundwater characterization and management services to Tetra Tech. In January 1997, the Commission authorized staff to advertise and receive Request For Proposals for this work. Staff received 21 proposals, which was short listed to 4 firms. Tetra Tech was the lowest responsive bidder and was confirmed by the Human Rights Commission.

ACTION: Commissioner Lee moved approval; Commissioner Cook seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

D. Approval of a First Amendment, authorizing additional design services for Professional Services Contract No. SA3960018, "Pier 52 Public Boat Ramp, Bait Shop & Cafe and Public Access," with Arcus Architecture & Planning. (Resolution No. 97-31)

Mr. Alex Lee, Director of Facilities and Operations, requested that the contract be amended from $235,000 to $322,337 to complete the design of the boat ramp project. During the conceptual design, the Port added project program components, studies and estimates not included in the original contract. These changes were required due to direction from the Port Commission, the Department of Public Work's Disability Access Coordinator, Port appointed Design Advisors and the Citizen's Advisory. CalBoating has also indicated that additional funding would be available if the Port provide parking for trailers and trucks. During the investigation phase of the geotechnical work, our consultant found that a fill supported ramp cannot be used and recommended the use of a pile supported ramp at an additional design cost. DPW's ADA Coordinator also required a disability access to this facility which requires additional redesign. The item before the Commission is for the modification of this contract to complete the Pier 52 boat ramp project.

Commissioner Lee indicated that he has received a briefing from staff and understood that the latest estimate for the project exceeds the available funds. Mr. Alex Lee concurred and indicated that staff intends to build the ramp first and some of the amenities and have the dining deck built when funds become available.

Commissioner Cook commented that the best course of action is what staff is recommending. He agreed with Commissioner Herman's remarks to ensure that this is a working facility. This is for boaters and should be open for boaters. If this means that Terry Francois Blvd is closed off for all but maritime and boating traffic

during games, he supports it. He encouraged staff and the Commission to take a closer look at this issue and make it very clear that this is a priority and the use of the facility is for boaters and not for people going to the game.

Commissioner Hardeman concurred that this project is to build the boat ramps for boaters' use. He reiterated that all of the Commissioners are in favor of building it. The other issues will be discussed when it becomes necessary.

ACTION: Commissioner Lee moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

8. FINANCE AND ADMINISTRATION

A. Authorization to enter into an Expense Reimbursement Agreement with China Basin Ballpark Company, and appropriation to pay expenses up to $477,000. (Resolution No. 97-25)

Mr. Ben Kutnick, Director of Finance & Administration, stated that the Port Commission endorsed a term sheet with the Giants for a lease subject to CEQA approval. As part of the term sheet of the lease, the Giants agreed to loan the Port up to $500,000. The Giants requested the Port to accelerate the relocation schedule and have agreed to pay the Port $477,000 for that purpose. The material provisions of the agreement include the following: (1) CBBC will pay the Port three equal installments starting May 1, 1997; (2) The payments are non-refundable if an agreement is not finalized with the Giants; (3) The term sheet will be modified to provide a rent credit to the Giants of two equal installments of $125,000 beginning February 2000; (4) The CBBC payment and the Port rent credits payable under this agreement replace in its entirety the transaction cost advance of up to $500,000 and the corresponding rent credits contemplated under the Term Sheet. A supplemental appropriation will be submitted to the Mayor and the Board of Supervisors to appropriate the $477,000 for relocation cost of tenants and Port staff. Staff has received from OER a certificate of exemption for CEQA for the tenant and maintenance relocation project.

ACTION: Commissioner Lee moved approval; Commissioner Herman seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

B. Approval of 1997/98 Executive Director Compensation. (Resolution No. 97-27)

Mr. Kutnick indicated that staff has surveyed the salaries of eight West Coast ports. The average salary of executive directors of those eight ports is $157,000. In the last three years, the Port Commission has recommended salary increases for the executive director consistent with those received by management employees of the City, including their department heads as represented by the Municipal Executive Association. The following is recommended: 2% salary increase retroactive to December 23, 1996 (the Executive Director's starting date); 2% salary increase

beginning July 1, 1997 and an additional $75 a month for Cafeteria benefit plan and 2.5% retirement pick-up.

ACTION: Commissioner McCarthy moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

C. Approval of Revisions to FY 1997/98 Operating Budget. (Resolution No. 97-28)

Mr. Kutnick stated that in February 11, 1997, the Commission approved the 97/98 Operating Budget. At that time, he indicated that staff will return to the Commission at a later date for approval of items that were not originally included on the budget. The revenue and expense items for Commission's approval are outlined on page 2 of the staff report. It will adjust the Port's projected surplus from $620,000 to $416,000. The budget was done conservatively. We would like to finish the year with revenues higher than projected and expenditures lower than projected. This was accomplished in the last three years. In 1994/95, we budgeted a $1.4 in surplus; and ended the year with $3.2 million in surplus. In 1995/96, we budgeted $733,000 in surplus and ended the year with $2.9 million. This year, we had budgeted $673,000 and will end the fiscal year with $1.3 million in surplus. Based on the last three years, he expects that the Port's surplus for the next fiscal year will be higher.

Commissioner McCarthy inquired about the status of the SSA agreement. Mr. Kutnick replied that in June 1996, staff requested the Commission's approval for an agreement with the terminal operators at Pier 94/96 to subsidize their operation in an amount not-to-exceed $750,000 to maintain their operation. Port staff is currently looking at the proposal received from SSA and is performing an analysis and will present a proposal to the Commission in June. It is anticipated that the proposal, subject to Port Commission approval, would require a continuation of the subsidy. The two things that would affect the amount of subsidy are: (1) the Port's ability to negotiate a better deal with the terminal operator and (2) the Port's ability to increase cargo volumes. In his conversation with the Port's maritime staff today, over the last two years, cargo volumes have doubled but unfortunately, costs have gone up as well. Staff will return to the Commission within sixty days with a plan, including a marketing plan. He stated that the Port needs to keep the terminal open to attract additional shipping lines.

Commissioner McCarthy reiterated her concern that the Port gets the best deal possible. She requested that a marketing strategy plan be provided to the Commission so that they are well apprised of the situation before it comes back to the Commission for a vote.

In reviewing staff's report, Commissioner McCarthy noticed that the Port will pay $17,900 for work order expense to the new Department of Environment. Since the Port is paying for the work orders, she wondered if the Port has any MOU's or agreements with those departments and if the Port has a system in place to monitor or manage the work. Mr. Kutnick acknowledged Commissioner McCarthy's concern and

assured her that an agreement will be in place before the Port sends the new Department of Environment any money. He indicated that this department is brand new. The money is intended to be used for a Citywide pest control management plan that the Port is asked to contribute. The Port obtains work order services from 29 City departments and the Port only has a few MOUs in place but will have staff look into developing the MOUs.

Commissioner Lee echoed Commissioner McCarthy's comments. He inquired if the Port maintains an audit or monitoring system to ensure that the departments are performing the services they agreed to. Mr. Kutnick replied that each year, the Mayor's office require that both departments agree, in writing, as to the amount and scope of services by the performing and requesting departments. Before a payment is made, the performing department submits to the Port, for approval, a request for services. Back-up documents are provided to support those charges. A Port Manager is responsible for overseeing those services before the Accounting department transfers the cash and records the expenditure. However, a standard procedure has not been established. Mr. Kutnick indicated that he will meet with his staff and fellow directors to develop MOUs and define the responsibilities, expectations and reporting requirements. Commissioner Lee stated that this is a good idea since the Port is paying for the services. The Port should be able to monitor and control the services and be able to inform them if they are not performing the job properly. He volunteered to work with Mr. Kutnick on this issue and Mr. Kutnick accepted his offer.

Commissioner Hardeman indicated that he, too, was concerned when he found out that the Port work orders services from 29 City agencies but was assured by Mr. Kutnick that he will investigate and bring back his findings to the Commission. He was delighted that Commissioner Lee is willing to assist Mr. Kutnick. If Commissioner Hardeman's schedule permits, he too would like to be involved. He then thanked Mr. Kutnick for the briefing provided to the Commission.

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

9. CONSENT CALENDAR

10. NEW BUSINESS / PUBLIC COMMENT

Mr. Fink raised an issue regarding Carriage Charter on Pier 33. He indicated that they have been a good neighbor and he does not understand why they will be out of business. He mentioned that Mr. Creedon faxed a document to the Commission regarding this matter. He requested the Commission wait another thirty days before evicting him. Mr. Wong indicated that this has been an ongoing litigation case and Mr. John Rakow has been handling this matter. On behalf of John Rakow, Legal Counsel Julie Van Nostern stated that the Carriage Charter matter has been ongoing for well over a year and is currently in litigation and matters in litigation are not discussed in open session. However, it was her

understanding that from reviewing the file the Port went forward on an unlawful detainer. A motion and summary judgement was filed but the Port prevailed. A motion for reconsideration also was filed but, again, the Port prevailed. It is her further understanding that there are sums due to the Port by Carriage Charter. As well, it is the business decision on the part of the Port not to retain this tenant. It would be in the Port's best interest to go forward with the eviction, which is to take place tomorrow. Mr. Jenkel has been represented by counsel and he has had due process.

Commissioner Hardeman recalled that when he first joined the Port Commission, Commissioner Cook was a gentleman, very friendly and never used his knowledge to abuse him and for that he was thankful. He appreciated his attitude and the way he treated him when he came on the Commission.

11. EXECUTIVE SESSION

At 5:50 p.m., the Commission Secretary announced that the Executive Session has been canceled.

Commissioner Hardeman adjourned the meeting at 5:55 p.m.

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SAN FRANCISCO PORT COMMISSION

SPECIAL MEETING
MAY 5, 1997, 2:00 P.M. ←←Please note the date & time of the meeting
FERRY BUILDING, SUITE 3100
SAN FRANCISCO, CALIFORNIA

AGENDA

1. **ROLL CALL**

2. **FINANCE AND ADMINISTRATION**

   Authorization for the Port to enter into a ten-year loan for $12 million to finance the Maintenance Facility Relocation Project and the CalTrans Acquisition Project and related closing costs; authorization for the Executive Director to negotiate an interest rate cap agreement to mitigate interest rate risk on the loan, and, authorization for a Supplemental Appropriation to appropriate loan proceeds for these two projects. (Resolution No. 97-38)

3. **NEW BUSINESS/PUBLIC COMMENT**

   Public comment is permitted on any matter within Port jurisdiction, and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. Please fill out a speaker card and hand it to the Commission Secretary. Each speaker is limited to three minutes.

4. **ADJOURNMENT**

DISABILITY ACCESS

The Port Commission office is located on the third floor of the Ferry Building, Suite 3100. The Port office is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) will be available. The closest accessible BART station is Embarcadero Station located at Market and Steuart Streets. The closest accessible MUNI Metro station is Embarcadero station located at Market and Spear Streets. Accessible MUNI lines serving the Ferry Building are the 9, 31, 32 and 71. For more information about MUNI accessible services, call 923-6142.

There is accessible parking at the Ferry Building and at the public lot in the Embarcadero median in front of the Ferry Building. Assistive listening devices are available for use in the Port Commission Meeting.

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- A Sound Enhancement System
- Large Print of the Agenda
- The use of a reader during the meeting
- Minutes of the Meeting in Alternative Formats

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PORT OF SAN FRANCISCO

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MEMORANDUM

April 30, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. James Herman
Hon. Frankie G. Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: Authorization for the Port to enter into a ten year loan for $12,000,000 to finance the Maintenance Facility Relocation Project and the CalTrans Acquisition Project and related closing costs; authorization for the Executive Director to negotiate an interest rate cap to mitigate interest rate risk on the loan, and, authorization for a Supplemental Appropriation to appropriate loan proceeds for these two projects.

DIRECTOR'S RECOMMENDATION: Approve Resolution.

The proposed transaction would authorize the Port to enter into a ten year loan for approximately $12,000,000 to finance two separate projects, the Maintenance Facility Relocation Project and the CalTrans Acquisition Project, which are more fully described below.

Maintenance Facility Relocation Project

In early 1996 the Port determined that the Port's maintenance facility located on the ground floor of the Pier 46B and was not designed for the operation of a modern maintenance facility and lacked adequate office space for the maintenance department needs. Accordingly, the Port hired Parsons Infrastructure and Technology Group Inc. to evaluate potential relocation sites. Parsons agreed that a new facility was required and recommended that moving to either Pier 48 or Pier 50D was the most cost effective option.

In December 1996 the Commission initially authorized staff to retain the Kendall Young Associates and Beverly Prior Associates ("KYA/BPA"), a joint venture, to design a new

maintenance facility at Pier 48. However, due to a fire at Pier 48 and receipt of more detailed cost estimates from the design firm, the Port revisited its decision to relocate the maintenance facility to Pier 48. Based upon that analysis the Port concluded that it could reduce its overall costs substantially by moving the facility from Pier 46B to Pier 50. Accordingly, the KYA/BPA contract was modified to reflect that decision.

The maintenance department is responsible for repair and maintenance of all facilities in the Port's jurisdiction, including substructure, decks, buildings, utilities, container cranes, streets, streetlights, and parking meters. The Port's current maintenance facility is housed on the ground floor of a multi-story reinforced concrete building constructed in the 1920s. The Port moved the maintenance department to Pier 46B in the early 1970's. Pier 46B was never designed for the operation of a modern maintenance facility. A new facility will improve operating efficiency by incorporating a new warehousing system, upgraded tooling, and other features described below.

The Port intends to fully vacate Pier 46. This requires the relocation of the maintenance facility at Pier 46B as well as the relocation of approximately 12 commercial tenants at Pier 46A. At its April 22, 1997 meeting, the Port Commission adopted the Certificate of Determination of Exemption/Exclusion from Environmental Review that determined that the relocation of the maintenance facility and tenants from Pier 46 to Pier 50 and the Port building located at 555 Illinois Street is exempt from CEQA.

CalTrans Acquisition Project

Section 2.6 of Chapter 1333 of the Statues of 1968 (the "Burton Act"), which was added by Chapter 11, Statutes of 1984 of the California Legislature (AB 84), gives the City, acting by and through its Port, the right to negotiate with the California State Department of Transportation ("CalTrans") for the purchase of property. The Port intends to acquire a 3 acre parcel (Assessor's Block 3794), which is adjacent to Pier 46, from CalTrans.

The proposed purchase by the City remains subject to completion of an environmental impact report and the approval of the Port Commission, Board of Supervisors and Mayor, in their discretion. The loan funds allocated to this project would not be drawn unless and until all of these approvals are in place.

Project Costs

The Port is 1) requesting authorization to enter into a loan to fund the estimated $12,000,000 in costs and improvements associated with the Maintenance Facility Relocation Project and the CalTrans Acquisition Project; and 2) is requesting approval to appropriate the funds for these two projects as follows:

Project Components	Estimated Loan Amount
Maintenance Facility Relocation Project	
Design and Construction of new Maintenance Facility site	$4,062,775
Maintenance Facility Relocation Costs	405,450
Improvements to new site locations for relocation of tenants	2,381,255
Tenant relocation costs	200,520
Subtotal Maintenance Relocation Project	$7,050,000
CalTrans Acquisition Project	
Acquisition of parcel	$3,600,000
Tenant relocation costs	500,000
Closing costs	350,000
Subtotal CalTrans Acquisition Project	$4,450,000
Costs of Loan Issuance	500,000
Total Project Costs	$12,000,000

Pier 50D Improvements

Relocation of the maintenance facility to Pier 50D requires utility and sewer upgrades, construction of demising walls for shops, fire safety improvements which include sprinklers, and related renovations. The Port hired Kendall Young Associates/Beverly Prior Architects ("KYA/BPA"), an MBE/WBE joint venture, to provide the required architectural and engineering services for the new maintenance facility. Construction of the facility will be accomplished using both contractors and Port employees. Relocation of the maintenance facility will be handled primarily by Port employees.

Tenant Relocation

The Port needs to make improvements to Pier 48 and to Pier 50A, 50B and 50C in order to relocate tenants into these facilities. Improvements to Pier 48 include removal of hazardous material and design of tenant improvements. The improvements to Pier 50A, 50B and 50C include new roofs, sprinklers, and upgraded ADA accessible bathrooms. Pursuant to an October 1996 memo, the fire Marshall has ruled that the Port must put sprinklers and demising walls into the sheds at Pier 50 in order to meet current code.

Tenant relocation costs consist of the cost of moving a radio antenna that is attached to the roof of Pier 46 to a new location at Pier 70 in addition to the improvements noted above.

CalTrans Acquisition

On January 29, 1997 the California Transportation Commission ("CTC"), which has authority for dispositions of CalTrans property, approved an agreement in principle on the basic terms of the purchase of the CalTrans parcel by the City, including the purchase price of $3,600,000. In addition, as a condition to the acquisition, the Port has agreed to pay a portion of the costs related

to relocating tenants currently occupying the parcel, not to exceed $500,000. The Commission endorsed the execution of the non-binding agreement at its meeting on March 11, 1997. Other costs related to closing this transaction include escrow fees, recording fees, title insurance and legal expenses estimated to be $350,000.

Loan Issuance Costs

Costs of the loan issuance, estimated at $500,000, include the loan fee, a cap fee, printing costs, financial advisor fees, bond counsel fees, city attorney fees, and other legal expenses associated with the negotiation of the loan. (See below for further detail.)

Loan Terms and Conditions

On February 7, 1997 the Port issued a request for proposals ("RFP") for a subordinated loan to be drawn down over a one year construction period, and repaid over twelve years. This loan would be subordinated to all bonded debt paid by the Port. On March 10, 1997 three bids were received and evaluated. Canadian Imperial Bank of Commerce ("CIBC", Inc.) was selected by a panel based on evaluation criteria included in the RFP.

The following financial terms and conditions have been negotiated with CIBC, Inc.

Loan Amount:	$12,000,000
Draw Period:	One year draw period
Repayment Period:	Ten year term in equal quarterly principal payments commencing after the draw period (see schedule attached)
Prepayment Penalty:	None if repaid on an interest payment date.
Fees:	
Loan Fee	$42,000 (35bp on the total commitment)
Commitment Fee	50bp on the undrawn commitment during the one year draw period based on the actual draw amount
Bank Closing Fees	$42,500
Interest Rates:	
Interest Rate during Draw Period	LIBOR + 75bp spread or Base Rate + 25bp spread (at Port option)
Interest Rate on Term Loan	LIBOR + 80bp spread or Base Rate + 40bp spread (at Port option)
Default Rate	Base Rate + 2.00%
Interest Rate Mitigation:	Port to purchase interest rate cap estimated to be fixed between 8.5% and 9.5% which is estimated to cost between $200,000 and $400,000.

Prepayment

In order to avoid prepayment penalties if the Port wishes to prepay or refinance the loan, the negotiated loan rate is a floating rate tied to either LIBOR, a standard loan index, or the Base Rate (sometimes called the Prime Rate). The loan will not be subject to prepayment penalty in the event of prepayment or refinancing, provided that the payment is made on an interest payment date. There is an interest payment date at least once every 3 months.

Fees

Costs of the loan issuance include a loan fee to be paid at closing to the lender equal to 35 basis points times the committed amount (0.35% x $12,000,000 = $42,000.00), and a commitment fee equal to 50 basis points times the undrawn portion of the loan during the one year draw period. Total costs of loan issuance are estimated as follows:

Loan Fee	$42,000
Financial Advisor	10,000
Bond Counsel	7,500
Bank Legal Fees	42,500
City Attorney Fees	10,000
Printing and Advertising	8,000
Estimated Cost of Interest Rate Cap	380,000
Total Costs	$500,000

LIBOR Index

At the Port's option at the time of draw, staff may select 1 month, 2 month, 3 month and 6 month LIBOR. Staff will watch interest rate trends and select accordingly. For the past three years 3 month LIBOR has averaged around 6%. As an example, the 3 month LIBOR rate as of April 29, 1997 is 5.86%. See the attached graphs for a 7 year history of 3 month LIBOR rates.

Default Rate

In the event the Port is in default under the agreement, the interest rate will automatically convert to Base Rate plus 2.00%. Events of default include non-payment of principal and interest, non-payment of other bank fees, bankruptcy, and failure to cure any covenant breach after a 60 days of receiving written notice that the Port is in breach of a covenant. The loan is subordinate to all Port bonds, and the payment can not be accelerated by the bank unless the bond debt has been accelerated by the Trustee under the bond Indenture.

Indemnity

The agreement contains a provision under which the Port agrees to indemnify the Bank only for claims or costs associated with the Bank's enforcement or preservation of its rights under the agreement. The indemnity is payable only from the Port's net revenues.

Interest Rate Mitigation

In order to mitigate the interest rate risk associated with a floating rate, the Port intends to buy a "cap." The Port is requesting approval under this resolution for the Executive Director to negotiate a cap, currently estimated to be between 8.5% and 9.5%, at a price not to exceed $400,000.

A cap is analogues to buying insurance in that it protects the Port from paying high rates by fixing the maximum rate the Port is willing to pay. For example if LIBOR plus 80bp spread exceeds the cap rate, the interest over the cap rate will be paid on behalf of the Port by the cap provider. An example follows:

LIBOR rate	8.0%
Spread	0.8%
All in cost	8.8%
Port cap rate	8.5%
Paid by cap provider	0.3%

The cap still has value to the Port in the event that the Port prepays or refinances the loan. The Port could either sell the cap or continue to receive any payments due under the agreement.

Based on current market conditions the Port estimates fixing the cap rate at 8.5%. The Port does not anticipate market conditions to change significantly prior to the anticipated closing date of May 14, however, all factors will be reexamined prior to fixing the cap rate at the time of the loan closing. At the date of this memo, the borrowing rate for the loan is estimated to be approximately 6.6%. The maximum rate the Port would pay would be cap rate fixed at closing, currently anticipated to be 8.5%.

Commercial Loan

Staff has elected to fund these projects with a commercial loan for the following reasons:

1. Loan draw would be available for CalTrans acquisition immediately upon final approval of the acquisition.

2. Port will only repay the amount drawn on the loan, therefore if costs are lower or the CalTrans acquisition does not go through Port will not have already borrowed money it doesn't need.

3. Only the maintenance facility costs ($4,589,552, or, 38% of the total loan) are eligible for tax exempt financing. The remaining portion of the loan is taxable financing. This is not a cost effective amount for the issuance of bonds.

4. Taxable revenue bonds with a ten year amortization for the Port would cost approximately 7.8% if sold today. The total amount would have to be drawn up front, resulting in an interest loss during the construction period of approximately 1.45% based on the current city pooled interest rate of 6.25%. The loan will only be drawn as needed.

5. The Port has more flexibility with regard to prepaying or refinancing the loan than it would with revenue bonds which generally restrict the timing and ability of the issuer to prepay or refinance.

The loan documents which are attached in substantial final form, have been reviewed by the Port's financial advisor, the Port's Bond Counsel, and by the City Attorney.

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-38

WHEREAS, Section B 3.581 of the City Charter empowers the Port Commission of San Francisco (the "Commission") with power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, the Port has decided to move its maintenance facility from its existing location at Pier 46B to Pier 50D; and

WHEREAS, the Port intends to fully vacate Pier 46 which requires the relocation of approximately 12 commercial tenants from Pier 46A, in addition to the relocation of the maintenance department from Pier 46B; and

WHEREAS, the Port must make improvements to future sites to be occupied by the Port's maintenance operation and its tenants, and pay for certain relocation costs (the "Maintenance Facility Project"); and

WHEREAS, the Port Commission adopted Resolution #96-101 authorizing the Executive Director to issue a request for proposal necessary to facilitate the Maintenance Relocation Project at the Port Commission meeting held on September 24, 1996; and

WHEREAS, Section 2.6 of Chapter 1333 of the Statues of 1968 (the "Burton Act"), which was added by Chapter 11, Statutes of 1984 of the California Legislature (AB 84), gives the City, acting by and through its Port, the right to negotiate with Caltrans for the purchase of property; and

WHEREAS, at its meeting of March 11, 1997 the Port Commission endorsed the execution of a non-binding agreement to purchase Assessor's Block 3794 from the State of California, Department of Transportation (the "CalTrans Acquisition Project"); and

WHEREAS, the proposed purchase by the City remains subject to completion of an environmental impact report and the approval of the Port Commission, Board of Supervisors and Mayor, in their discretion; and the loan funds allocated to this project would not be drawn unless and until all of these approvals are in place; and

WHEREAS, the Port requires $12,000,000 in outside financing to fund the Maintenance Facility Project and the CalTrans Acquisition Project; and

WHEREAS, the Port issued its request for proposals for subordinated loan on February 7, 1997. On March 10, 1997 three (3) proposals were received; and

WHEREAS, the Port selected Canadian Imperial Bank of Commerce ("CIBC") based on evaluation criteria included in the RFP; and

WHEREAS, the Port has negotiated an agreement which is attached in substantial final form, which includes the terms and conditions as set forth in the Memorandum to the Commission for Agenda Item 2 for the May 5, 1997 special meeting; and

WHEREAS, Port staff recommends purchasing an interest rate cap to mitigate interest rate risk over the term of the loan as set forth in the Memorandum to the Commission for Agenda Item 2 for the May 5, 1997 special meeting; and

WHEREAS, approval of a supplemental appropriation is required to spend the loan funding as set forth in the Memorandum to the Commission Agenda Item 2 for the May 5, 1997 special meeting for the Maintenance Facility Project and the CalTrans Acquisition Project; and

WHEREAS, the agreement agrees to indemnify the Bank only for claims or costs associated with the Bank's enforcement or preservation of its rights under the agreement, such claims to be payable only from the Port's net revenues.

WHEREAS, the Port Commission has considered the Certificate of Determination of Exemption/Exclusion from Environmental Review, dated April 21, 1997, issued by the Department of City Planning, Office of Environmental Review (a copy of which is on file with the Port Commission Secretary), and found that the relocation of the Port's maintenance facility and Port tenants from Pier 46 is categorically exempt from the California Environmental Quality Act ("CEQA") under Section 15301 of the CEQA Guidelines and S.B. 181, signed by the Governor on April 12, 1997; now, therefor be it

RESOLVED, on April 22, 1997 the Port Commission adopts the findings set forth in the Certificate of Determination of Exemption/Exclusion from Environmental Review, dated April 21, 1997, issued by the Department of City Planning, Office of Environmental Review (a copy of which is on file with the Port Commission Secretary), and finds that the Maintenance Facility Project is categorically exempt from CEQA; and be it further

RESOLVED, that the Commission hereby awards a contract for a $12,000,000 subordinated loan to CIBC, Inc., as set forth in the Memorandum to the Commission for Agenda Item 2 for the May 5, 1997 special meeting to fund the Maintenance Facility Project and the CalTrans Acquisition Project; and be it further

RESOLVED, that the Commission agrees to indemnify the Bank only for claims or costs associated with the Bank's enforcement or preservation of its rights under the agreement, such claims to be payable only from the Port's net revenues.

RESOLVED, that the Executive Director is hereby authorized to enter into the Credit Agreement in substantially the form attached hereto; and be it further

RESOLVED, that the Commission Executive Director is hereby authorized to negotiate and execute an interest rate cap agreement, as set forth in the Memorandum to the Commission for Agenda Item 2 for the May 5, 1997 special meeting, at a cost not to exceed $400,000, in order to mitigate interest rate risk over the term of the loan; and be it further

RESOLVED, that the Commission hereby approves the supplemental appropriation required to spend the loan funding for the Maintenance Facility Project; and be it further

RESOLVED, that the Commission hereby approves the supplemental appropriation for the CalTrans Acquisition Project, subject to completion of an environmental impact report by the Port Commission and the Board of Supervisors.

I hereby certify the foregoing resolution was adopted by the Port Commission at its meeting of May 5, 1997.

_____

Secretary

PORT COMMISSION OF SAN FRANCISCO
Maintenance Facility and CalTrans Acquisition Loan

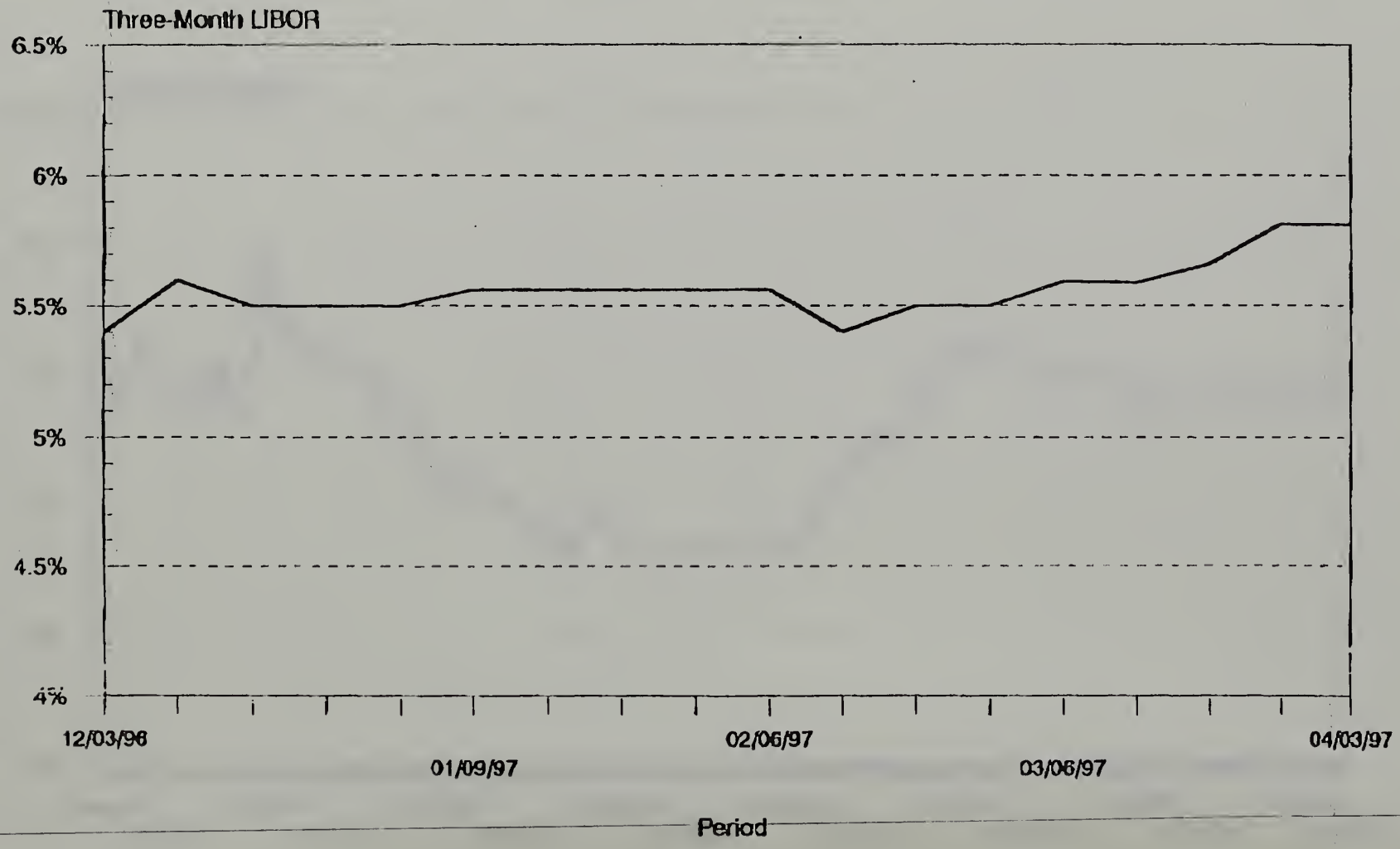
Estimated Debt Service Schedule

Fiscal Year	Principal Payment	Interest Payment	Total Debt Service
1997		26,800	26,800
1998	0	731,500	731,500
1999	1,200,000	876,000	2,076,000
2000	1,200,000	780,000	1,980,000
2001	1,200,000	684,000	1,884,000
2002	1,200,000	588,000	1,788,000
2003	1,200,000	492,000	1,692,000
2004	1,200,000	396,000	1,596,000
2005	1,200,000	300,000	1,500,000
2006	1,200,000	204,000	1,404,000
2007	1,200,000	108,000	1,308,000
2008	1,200,000	18,000	1,218,000
	12,000,000	5,204,300	17,204,300

Interest rate during draw period estimated to be 7.00%
Interest rate during draw period includes 0.5% Commitment fee
Interest rate during term period estimated to be 8.5%

Three-Month LIBOR

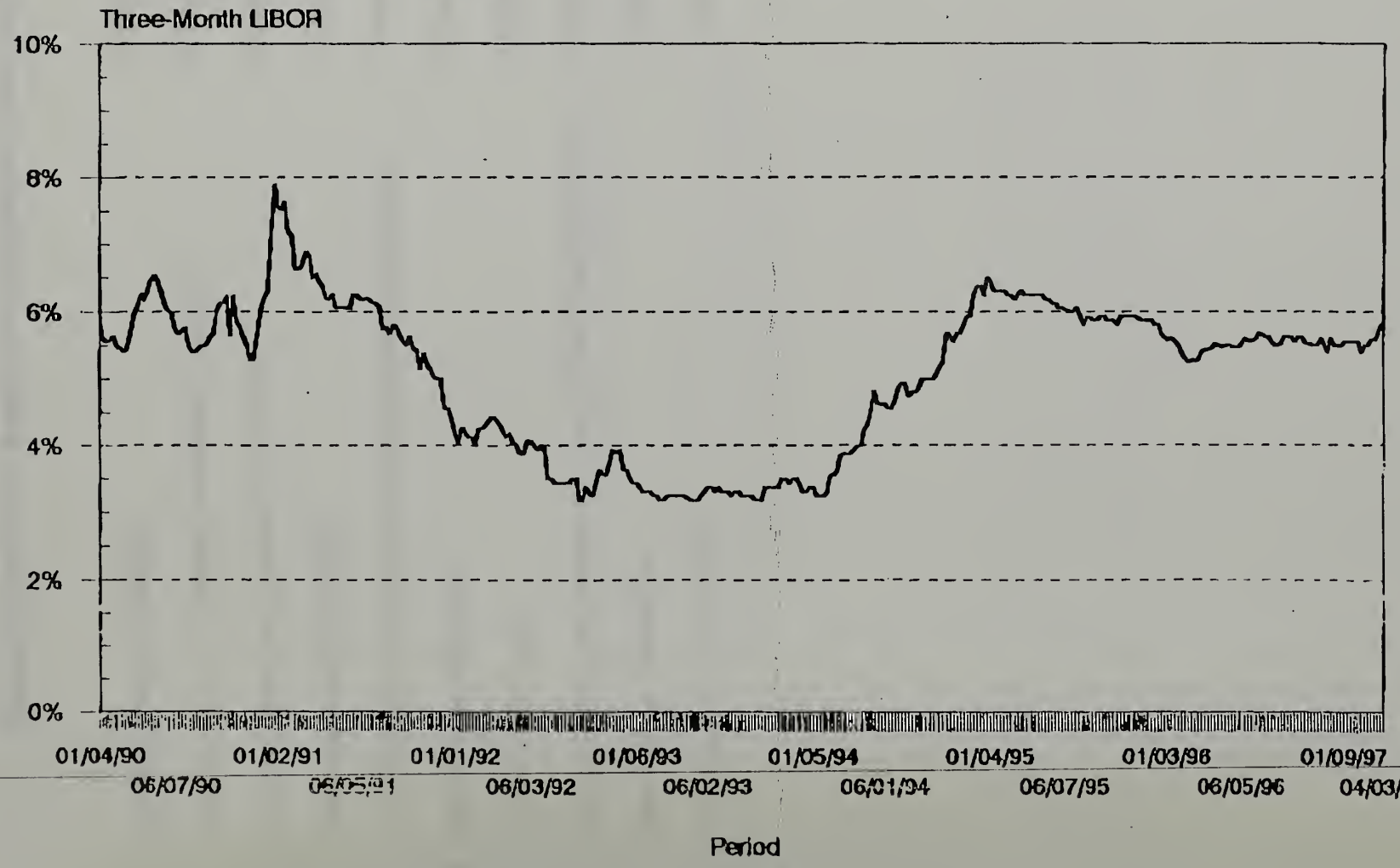
Weekly Averages December 1996 to April 1997



Three-Month LIBOR

Weekly Averages

January 4, 1990 to April 3, 1997



Estimated Schedule for Approval of Subordinated Credit Facility

1. Special Commission Meeting	Monday, May 5
2. Send Resolution to Finance Committee for approval	Wednesday, May 7
3. Finance Committee Approval of Resolution	Wednesday, May 21
4. Board approval of Resolution	Tuesday, May 27
5. First Reading of Ordinance for Supplemental Appropriations	Tuesday, May 27
6. Mayor Signs Legislation	Friday, May 30
7. Close Credit Facility	Monday, June 2
8. Second Reading of Ordinance for Supplemental Appropriations	Monday, June 2
9. Mayor Signs Legislation	Tuesday, June 3
10. First draw on Credit Facility	Tuesday, June 3

LIMITED SUBORDINATE CREDIT FACILITY

dated as of May ____, 1997

between

PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO

and

CANADIAN IMPERIAL BANK OF COMMERCE
acting through its New York Branch

(JUNIOR AND SUBORDINATE TO ALL SENIOR LIEN BONDS, INCLUDING, WITHOUT LIMITATION, ALL OUTSTANDING BONDS AND FUTURE BONDS HEREINAFTER ISSUED PURSUANT TO THE INDENTURE OF TRUST, DATED AS OF JUNE 1, 1994, BETWEEN THE PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO AND UNION BANK, AS TRUSTEE AS SET FORTH HEREIN)

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LIMITED SUBORDINATE CREDIT FACILITY

THIS LIMITED SUBORDINATE CREDIT FACILITY is made as of May __, 1997 between the **PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO** ("**Commission**") and **CANADIAN IMPERIAL BANK OF COMMERCE**, acting through its New York Branch ("**Bank**").

BACKGROUND

A. The Commission has entered into an agreement dated as of January 24, 1969 (the **"State Agreement"**) pursuant to which the State of California has transferred ownership of the Port of San Francisco to the City and County of San Francisco; and

B. Under the Charter of the City and County of San Francisco, the Commission has under its management, supervision, operation and control all real and personal property transferred under State of California Statutes 1968, Chapter 1933, and of all other properties wherever situated as it may acquire or which may be placed under its management, supervision or control; and

C. The Commission desires to finance certain projects located within the Port Area (as defined hereinafter); and

D. On February 7, 1997, the Commission issued a Request for Proposals for Subordinate Credit Facility to finance these projects; and

E. The Commission selected Bank to provide the requested credit facility; and

F. Now, the Commission and the Bank agree as follows:

AGREEMENT

ARTICLE ONE

DEFINITIONS

Section 1.1 Definitions. The definitions appearing in this Agreement or any supplement or addendum to this Agreement, shall be applicable to both the singular and plural forms of the defined terms:

"Act" means the San Francisco Harbor Revenue Act of 1951 (formerly Sections 3300 *et seq.* of the Harbors and Navigation Code of the State of California, now repealed); and the Charter of the City and County of San Francisco, as supplemented and amended, all enactments of the Board of Supervisors adopted pursuant thereto, and all laws of the State of California incorporated therein by reference.

"Additional Bonds" means any bonds issued, at any time, by the Commission in compliance with and pursuant to Section 2.09 of the Indenture.

"Agreement" means this Limited Subordinate Credit Facility, as it may be amended or supplemented from time to time.

"Annual Debt Service" means in any Fiscal Year, the principal and interest scheduled to become due and payable on the Subordinate Note.

"Authorized Commission Representative" means the Executive Director of the Commission, or the respective successors to the powers and duties thereof, or such other person as may be designated to act on behalf of the Commission.

"**Bank**" shall mean Canadian Imperial Bank of Commerce, acting through is New York Branch.

"Base Rate" shall mean, for any day, the rate of interest per annum equal to the higher of (i) the rate most recently determined and announced by the Bank at its New York Branch as its prime commercial lending rate, or (ii) the sum of the Federal Funds Rate in effect for such day plus 0.25%. Each change in the interest rate on Loans bearing interest at the Base Rate shall be effective as of the effective date of change in the Base Rate.

"Base Rate Loan" means an extension of credit under this Agreement accruing interest at a rate equal to the Base Rate plus the Base Rate Margin.

"Base Rate Margin" shall mean one quarter of one percent (0.25%) during the Funding Period and four-tenths of one percent (0.40%) during the Term Period.

"Board of Supervisors" means the Board of Supervisors of the City and County of San Francisco, as duly elected, appointed and qualified from time to time in accordance with the provisions of the Charter.

"Business Day" means any day except Saturday, Sunday or a day which is not a day for trading in dollar deposits by and between banks in the London Interbank Eurodollar market and which is not a day on which banks in New York and California and are required to be open.

"Charter" means the Charter of the City and County of San Francisco, as supplemented and amended, and any new or successor Charter.

"City" means the City and County of San Francisco, a chartered city and county and municipal corporation duly organized and existing under and by virtue of the Constitution and laws of the State of California.

"City Bonds" means the general obligation bonds issued by the City for the acquisition, construction, repair or extension of the Port Area or of any of the facilities used in connection with the Port Area.

"Closing Date" means the date of this Agreement.

"Commission" means the Port Commission of the City and County of San Francisco as duly constituted from time to time under the Charter, and all commissions, agencies or public bodies which shall succeed to the powers, duties and obligations of the Commission.

"**Commitment**" shall mean Twelve Million Dollars ($12,000,0000) as reduced automatically by the amount of any available principal not borrowed by the Term Loan Date.

"Enterprise Fund" means the San Francisco Harbor Trust Fund created pursuant to the Charter and held by the Treasurer, and any successor to such fund.

"Event of Default" means any one or more of those events set forth in Section 7.1 hereof.

"Facility" means the credit accommodation being provided to the Commission under the terms and conditions of this Agreement or any supplement to this Agreement, which credit accommodation is the Term Loan as more fully described in Article 2.

"Federal Funds Rate" means, for any day, the rate per annum (rounded upward, if necessary, to the nearest 1/100 of 1%), as determined by the Bank equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published for any day of determination (or if such day of determination is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by the Bank from three Federal funds brokers of recognized standing selected by it.

"Federal Securities" means (a) direct obligations of the United States of America, (b) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by the United States of America, (c) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by any agency or instrumentality of the United States of America when such obligations are backed by the full faith and credit of the United States of America, or (d) evidences of ownership of proportionate interests in future interest and principal payments on obligations described above held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying government obligations are not available to any person claiming through the custodian or to whom the custodian may be obligated.

"Fiscal Year" means the one-year period beginning on July 1 of each year and ending on June 30 of the succeeding calendar year, or such other one-year period as the Commission shall designate as its Fiscal Year.

"Funding Period" has the meaning ascribed to that term in Section 2.2(a) hereof.

"GAAP" means generally accepted accounting principles and practices consistently applied modified for government auditing standards.

"Indenture" means the Indenture of Trust, dated as of June 1, 1994, by and between the Commission and the Trustee, as supplemented by the First Supplement to Indenture of Trust. dated as of June 1, 1994, and may be further amended or supplemented pursuant to the terms of the Indenture.

"Interest Period" " means, as to any Libor Rate Loan, the period commencing on the funding date of such Loan, and ending on the date one, two, three or six months thereafter as selected by the Commission in its Request for Disbursement (as defined in Section 2.2 hereof); provided, however, that:

(i) if any Interest Period would otherwise end on a day that is not a Business Day, that Interest Period shall be extended to the following Business Day unless the result of such extension would be to carry such Interest Period into another calendar month, in which event such Interest Period shall end on the preceding Business Day;

(ii) any Interest Period pertaining to a Libor Rate Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(iii) no Interest Period shall extend beyond the Termination Date.

"Libor Rate" means, for any Interest Period, with respect to Libor Rate Loans comprising part of the same borrowing, the rate of interest per annum (rounded upward to the next 1/1000th of 1.0%) determined as follows:

$$\text{Libor Rate} = \frac{\text{Libor}}{1.00 - \text{Eurodollar Reserve Percentage}}$$

Where,

"**Eurodollar Reserve Percentage**" means for any day for any Interest Period the maximum reserve percentage (expressed as a decimal, rounded upward to the next 1/100th of 1.0%) in effect on such day (whether or not applicable to the Bank) under regulations issued from time to time by the Board of Governors of the Federal Reserve for determining the maximum reserve requirement (including any emergency,

supplemental or other marginal reserve requirement) with respect to Eurocurrency funding (currently referred to as "**Eurocurrency liabilities**"); and

"**Libor**" means the rate of interest per annum (rounded upward to the next 1/16 of 1%) determined by Bank as the rate of interest at which United States dollar deposits in the approximate amount of the Loan to be made or continued as, or converted into, a Libor Rate Loan and having a maturity comparable to such Interest Period would be offered by Bank's applicable lending office to major banks in the London interbank market at their request at approximately 11:00 a.m. (London time) two (2) Business Days prior to the commencement of such Interest Period.

The Libor Rate shall be adjusted automatically as to all Libor Rate Loans then outstanding as of the effective date of any change in the Eurodollar Reserve Percentage.

"Libor Rate Loan" means an extension of credit under this Agreement accruing interest at a rate equal to the Libor Rate plus the Libor Rate Margin.

"Libor Rate Margin" means three quarters of one percent (0.75%) during the Funding Period; and eight tenths of one percent (0.80%) during the Term Period.

"Lien" means any voluntary or involuntary security interest, mortgage, pledge, claim, charge, encumbrance, title retention agreement, or third party interest, covering all or any part of the property of the Commission or any other Person.

"Loan" means a Base Rate Loan or a Libor Rate Loan.

"Loan Documents" means, individually and collectively, this Agreement, any written amendment to this Agreement executed by both parties, the Subordinate Notes, security or pledge agreement(s) and all other contracts, instruments, and documents executed from time to time in connection with this Agreement or the extension(s) of credit which is the subject of this Agreement; Loan Documents shall not include any interest rate caps, hedge instruments, interest rate swaps or other similar products entered into by the Commission and the Bank.

"Maintenance Facility Relocation Project" means the (1) design and construction of a maintenance facility, (2) relocation costs and (3) other costs related to the Project..

"Maximum Annual Debt Service" shall mean the maximum amount of annual debt service to be paid by the Commission on the Term Loan and the proposed indebtedness to be incurred in any 12-month period commencing with the 12-month period beginning with the date of calculation and each subsequent 12-month period thereafter to the final payment date on such indebtedness. For the purpose of calculating the maximum annual debt service on the Term Loan, it shall be assumed that the unpaid principal amount accrues interest at the Base Rate plus the Base Rate Margin regardless of whether the Term Loan is accruing interest, in whole or in part, at the Libor Rate plus the Libor Rate Margin. For the purpose of calculating the maximum annual debt service on any other indebtedness for any period in which the interest rate on such

indebtedness is not fixed, it shall be assumed that such indebtedness shall accrue interest at a rate which is equal to ninety percent (90%) of the average Bond Buyer Revenue Bond Index ("RBI") or comparable index, or, if no comparable index can be obtained, eighty percent (80%) of the interest rate on actively traded United States Treasury obligations. Notwithstanding the foregoing, to the extent the Commission has entered into an interest rate cap for any indebtedness, it shall at no time be assumed that such indebtedness shall accrue interest at an interest rate in excess of such interest rate cap; provided that any provider of any such interest rate cap shall have a long-term rating of at least "A2" by Moody's and "A" by Standard & Poor's. To the extent the Commission enters into an interest rate swap in connection with any indebtedness, no amounts payable under such interest rate swap agreement shall be included in the calculation of maximum annual debt service unless the sum of (i) interest payable on such indebtedness, plus (ii) amounts payable by the Commission under such interest rate swap agreement, less (iii) amounts receivable by the Commission under such interest rate swap agreement, is greater than the interest payable on such indebtedness, then, in such instance, the amount of such payments to be made by the Commission that exceed the interest payable on such indebtedness shall be included in such calculation; provided that any provider of any such interest rate swap agreement shall have a long-term rating of at least "A2" by Moody's and "A" by Standard & Poor's. Any indebtedness incurred by the Commission for the purpose of discharging or paying the Term Loan shall be disregarded for the purposes of Section 5.12.

"Moody's" means Moody's Investors Service, a corporation existing under the laws of the State of Delaware, its successors and assigns, and, if such corporation shall no longer perform the functions of a securities rating agency, "Moody's" shall mean any other nationally recognized rating agency designated by the Commission.

"Net Revenue" means Revenue less (i) Operation and Maintenance Expenses and (ii) all amounts required for payments of the State Bonds.

"Obligation" means such obligations of the Commission evidenced by the Loan Documents.

"Operation and Maintenance Expenses" means, for any period, all expenses of the Commission incurred for the operation and maintenance of the Port Area, as determined in accordance with generally accepted accounting principles. Operation and Maintenance Expenses shall not include: (a) the principal of, premium, if any, or interest (including capitalized interest) on any Senior Lien Bonds or general obligation bonds issued by the City for Port Area purposes; (b) any allowance for amortization, depreciation or obsolescence of the Port Area; (c) any expense for which, or to the extent to which, the Commission is or will be paid or reimbursed from or through any source that is not included or includable as Revenue, including, but not limited to, Special Facility Revenue; (d) any extraordinary items arising from the early extinguishment of debt; (e) any costs, or charges made therefor, for capital additions, replacements, betterment, extensions or improvements to the Port Area which, under generally accepted accounting principles, are properly chargeable to the capital account or any reserves for depreciation; (f) any losses from the sale, abandonment, reclassification, revaluation or other disposition of any Port Area properties; and (g) extraordinary items that are unusual or unrelated

to the Commission's ordinary activities and would occur infrequently. Operation and Maintenance Expenses shall include the payment of pension charges and proportionate payments to such compensation and other insurance or outside reserve funds as the Commission may establish or the Board of Supervisors may require with respect to employees of the Commission, as now provided in the Charter.

"Person" means any individual or entity.

"Port Area" means all ports, together with facilities and property, which are owned, controlled or operated by the Commission or over which the Commission has management, supervision or control, or which the Commission deems to be of benefit to the Port.

"Project" means (1) the Maintenance Facility Relocation Project and (2) the Site Acquisition Project and (3) other additional or substitute projects approved by the Bank in writing.

"Qualified Self-Insurance" means either (a) a program of self-insurance, or (b) insurance maintained with a fund, company or association in which the Commission shall have a material interest and of which the Commission shall have control, either singly or with others, and in each case which meets the requirements of Section 5.5 hereof.

"Regulatory Change" has the meaning ascribed to that term in Section 2.12 hereof.

"Revenue" means all revenue earned by the Commission from or with respect to its management, supervision, operation and control of the Port Area, as determined in accordance with generally accepted accounting principles. Revenue shall not include: (a) interest income on, and any profit realized from, the investment of the proceeds of any Special Facility Bonds or Senior Lien Bonds; (b) Special Facility Revenue and any interest income or profit realized from the investment thereof, unless such receipts are designated as Revenue by the Commission; (c) grants-in-aid, donations and/or bequests, which by their terms would be restricted to uses inconsistent with the purposes provided hereunder; (d) insurance proceeds which are not deemed to be Revenue in accordance with generally accepted accounting principles; (e) the proceeds of any condemnation award; (f) the proceeds of any sale of land, buildings or equipment, to the extent such sale is extraordinary or non-recurring; (g) interest income on, and any profit realized from, the investment of monies in (i) the Revenue Bonds Construction Funds or Delivery Costs Funds or any other construction fund funded from proceeds of Refunded Bonds (each such capitalized term not defined herein as defined in the Indenture), Senior Lien Bonds, Special Facility Bonds, or any Subordinate Bonds, (ii) the Revenue Bonds Debt Service Fund (as defined in the Indenture) which constitute capitalized interest, to the extent required to be paid into the Revenue Bonds Debt Service Fund, or (iii) the Revenue Bonds Reserve Fund (as defined in the Indenture) if and to the extent there is any deficiency therein; and (h) any revenue as may have been impounded or deposited in the India Basin Sinking Fund created pursuant to Chapter 407, Statutes 1909; the Second San Francisco Seawall Sinking Fund created pursuant to Chapter 320, Statutes 1909; the Third San Francisco Seawall Sinking Fund created pursuant to Chapter 602, Statutes 1913; the Fourth San Francisco Seawall Sinking Fund created pursuant to Chapter 835,

Statutes 1929; or the Harbor Bond Sinking Fund created pursuant to Chapter 103, Statutes 1958 1st Ex. Sess.; until and unless all of the State Bonds and the interest thereon are and have been paid in full.

"Revenue Bonds" means any revenue bonds (including Additional Bonds and Subordinate Bonds) issued pursuant to the Indenture.

"Senior Lien Bonds" means Revenue Bonds, State Bonds and City Bonds.

"Site Acquisition Project" means (1) the acquisition of certain real property owned by Cal-Trans, (2) the relocation cost for existing Cal-Trans tenant and (3) other project-related cost.

"Special Facility" means any existing or planned facility, structure, equipment or other property, real or personal, which is at the Port Area or a part of any facility or structure at the Port Area and which is designated as a Special Facility pursuant to Section 2.14 of the Indenture.

"Special Facility Bonds" means any revenue bonds, notes, bond anticipation notes, commercial paper or other evidences of indebtedness for borrowed money issued by, or certificates of participation executed on behalf of, the Commission to finance a Special Facility, the principal, premium, if any, and interest with respect to which are payable from and secured by the Special Facility Revenue derived from such Special Facility, and not from or by Net Revenue.

"Special Facility Revenue" means the revenue earned by the Commission from or with respect to a Special Facility and which is designated as such by the Commission, including, but not limited to, contractual payments to the Commission under a loan agreement, lease agreement or other written agreement with respect to the Special Facility by and between the Commission and the person, firm, corporation or other entity, either public or private, as shall operate, occupy or otherwise use the Special Facility.

"Standard & Poor's" means the Standard & Poor's Corporation, a corporation organized and existing under the laws of the State of New York, and its successors and assigns and, if such corporation shall no longer perform the functions of a securities rating agency, Standard & Poor's shall mean any other nationally recognized securities rating agency designated by the Commission.

"State Agreement" shall have the meaning given such term in Paragraph A in the Background section.

"State Bonds" means any of the bonds heretofore authorized to be issued by the State of California pursuant to Chapter 407, Statutes 1909; Chapter 320, Statutes 1909; Chapter 602, Statutes 1913; Chapter 835, Statutes of 1929; Chapter 103, Statutes 1958 1st Ex. Sess.; and now outstanding.

"Subordinate Bonds" means any evidences of indebtedness for borrowed money issued from time to time by the Commission pursuant to Section 2.10 of the Indenture, including, but not limited to, bonds, notes, bond anticipation notes, commercial paper, lease or installment purchase agreements or certificates of participation therein.

"Subordinate Notes" means any promissory note in form and substance attached hereto as Exhibit A executed by Commission to evidence the Term Loan or any portion thereof.

"Supplemental Indenture" means an indenture supplementing or amending the provisions of the Indenture which is adopted by the Commission pursuant to Article IX of the Indenture.

"Term Loan" shall have the meaning given such term in Section 2.1 hereof.

"Term Loan Date" shall mean the first day immediately following the end of the Funding Period.

"Term Period" shall mean the Term Loan Date through the tenth anniversary of Term Loan Date.

"Termination Date" means the earlier of (a) _____, _____, (b) the date Bank terminates extending credit pursuant to the rights of Bank under Article Seven; (c) the date of a prepayment in full of the Term Loan pursuant to Section 2.5 or the date of (d) repayment in full of the Term Loan.

ARTICLE TWO

THE CREDIT FACILITY AND RELATED TERMS AND CONDITIONS

Section 2.1. The Facility.

(a) **Term Loan and Subordinate Note.** Bank agrees to make a term loan in an original principal amount not to exceed the Commitment ("**Term Loan**"), the proceeds of which shall be used for the Project. The Term Loan shall be disbursed in accordance with the procedures set forth in Section 2.2 below. The Term Loan shall be evidenced by one or more Subordinate Notes. All disbursement, payments and prepayments made on the Term Loan shall be recorded by the Bank on the schedule attached to the Term Loan. However, the failure by the Bank to make any such endorsement or any error therein shall not affect the obligations of the Commission under the Loan Documents with respect to disbursements or payments made on the Term Loan. The Commission may elect to borrow less than the full Commitment without penalty or additional charge except for the Commitment Fee due and payable in accordance with Section 2.6(b) hereof.

Section 2.2. Procedures for Borrowing.

(a) **Funding.** The Term Loan shall be made and disbursed over a three hundred and sixty-five (365) day period commencing on the date of this Agreement ("**Funding Period**"). Upon receiving an irrevocable request for disbursement from the Commission in the form attached hereto as Exhibit B ("**Request for Disbursement**"), Bank shall disburse to the Commission an amount equal to the requested disbursement amount, which amount shall be $250,000 and integral multiples of $100,000 thereof for all Loans. A Request for Disbursement for a Base Rate Loan must be received by the Bank at least one (1) Business Day prior to the requested disbursement date; and a Request for Disbursement for Libor Rate Loan must be received three (3) Business Days prior to the requested disbursement date. In both cases, the Request for Disbursement must be received by **[11:00 a.m. San Francisco time].** Each Request for Disbursement shall specify the following information:

(i) the disbursement date of such Loan;

(ii) the disbursement amount;

(iii) whether the Loan is to be a Libor Rate Loan or a Base Rate Loan; and

(iv) with respect to a Libor Rate Loan; the duration of the Interest Period applicable to such Loan.

The total disbursements under this Agreement shall not exceed the Commitment unless expressly approved by the Bank, the Commission and the Board of Supervisors of the City in writing.

(b) **Credit of Commission's Account.** On the disbursement date specified in the Request for Disbursement, Bank shall wire transfer or credit to the Commission's account at **[Bank – Account Number],** the total amount of such Loan. The Commission may designate a different account or provide alternative wire instructions by providing Bank with a written notice thereof.

(c) **Conversion of Loans.** The Commission may convert a Base Rate Loan into a LIBOR Rate Loan at any time by sending an irrevocable written notice to the Bank by [11:00 a.m. San Francisco time] at least three (3) Business Days prior to the proposed conversion date. The Commission may convert each Libor Rate Loan at the end of each Interest Period by sending an irrevocable written notice to the Bank at least one (1) Business Day prior to the last day of the Interest Period of the Libor Rate Loan being converted. Such notice must specify the following information:

(i) the Loan to be converted and, if applicable, the last day of the Interest Period for such Loan;

(ii) if the Loan (all such conversions to be for Loans in the amounts of $250,000 and integral multiples of $100,000 thereof) is going to be converted into multiple Loans, then the amount of each new Loan;

(iii) whether the new Loan is to be a Libor Rate Loan or a Base Rate Loan;

(iv) with respect to a Libor Rate Loan, the duration of the Interest Period applicable to such Loan; and

(v) the proposed conversion date.

(d) **Continuation of Libor Rate Loans.** The Commission may continue each Libor Rate Loan at the end of each Interest Period by sending an irrevocable written notice to the Bank by [11:00 a.. San Francisco time] at least three (3) Business Days prior to the last day of the Interest Period of the LIBOR Rate Loan being continued. Such notice must specify the LIBOR Rate Loan to be continued and the last day of the Interest Period for such Loan (it being agreed that all continued Loans shall be in amounts of $250,000 and integral multiples of $100,000 thereof);

(e) **Automatic Continuation of Loans**. If the Commission has not made an election under subsection (c) at least three (3) Business Days prior to the last day of the Interest Period, the Loan shall automatically be continued as a Libor Rate Loan with the same Interest Period.

(f) **Maximum Number of Libor Rate Loans.** At no one time shall there be more than five (5) Libor Rate Loans outstanding unless otherwise agreed to by the Bank.

Section 2.3. Interest Rates. The principal balance of all Loans outstanding shall accrue interest at one or more of the Base Rate or the Libor Rate, in accordance with the types of Loans selected by the Commission as set forth below:

(a) **Base Rate Loans.** Each Base Rate Loan shall accrue interest on the outstanding principal amount thereof, for each day from the date of disbursement until repayment in full, at a rate per annum equal to the Base Rate plus the Base Rate Margin.

(b) **Libor Rate Loans.** Each Libor Rate Loan shall accrue interest on the outstanding principal amount thereof, for each Interest Period applicable thereto, at a rate per annum equal to the Libor Rate plus the Libor Rate Margin.

(c) **Highest Lawful Rate**. Anything herein to the contrary notwithstanding, if during any period for which interest is computed hereunder, the applicable interest rate, together with all fees, charges and other payments, which are treated as interest under applicable law, as provided for herein or in any other Loan Document, would exceed the maximum rate of interest which may be charged, contracted for, reserved, received or collected by the Bank in connection with this Agreement under applicable law, the Commission shall not be obligated to pay, and the Bank shall not be entitled to charge, collect, receive, reserve or take, interest in excess of such maximum rate, and during any such period the interest payable hereunder shall be limited to such maximum rate; provided that the obligation of the Bank to make available any Loan shall

terminate to the extent it does not receive the interest rates specified in this Agreement due to operation of any such law.

Section 2.4. Repayment.

(a) Principal. No principal shall be payable during the Funding Period. The Commission shall repay principal on the aggregate principal amount of disbursed Loans over the Term Period. Such repayment shall be made in equal quarterly installments payable on **[February 1, March 1, August 1 and November 1]** of each year during the Term Period. The Commission's first principal payment shall be due and payable on **[August 1, 1998].** To derive the quarterly payments, the aggregate principal amount of such Term Loan shall be divided by the number of quarterly payments in the Term Period.

(b) Interest. The Commission shall pay interest on the unpaid principal amount of the Term Loan from the date hereof to the Termination Date in arrears at the following times:

(i) interest on each Base Rate Loan shall be payable quarterly on **[February 1, March 1, August 1 and November 1],** commencing with the first such date following the date of disbursement of such Base Rate Loan, except in the event of prepayment or conversion of a Base Rate Loan, in which case all interest that has accrued through such prepayment or conversion date shall be payable on such prepayment or conversion date;

(ii) interest on each Libor Rate Loan shall be payable on the last day of each Interest Period for such Libor Rate Loan except as hereinafter provided:

(1) If a Libor Rate Loan is prepaid or converted on a day other than the last day of the Interest Period, then all interest that has accrued through such prepayment or conversion date shall be payable on such prepayment or conversion date; and

(2) In connection with a Libor Rate Loan with a six-month Interest Period, Commission shall pay accrued interest on such Loan ninety (90) days following the date of disbursement of such Loan, with the remaining interest payable on the last day of the six-month Interest Period; and

(iii) Should an above interest payment date fall on a day other than a Business Day, then interest shall be payable on the first Business Day following the interest payment date and interest shall continue to accrue.

(c) Non-Specific Payments. Notwithstanding Section 2.5 hereof, if the Bank receives any funds from the Commission which are not specifically designated as an interest payment or a principal payment or as being credited to any specific Loan, the Bank shall immediately apply such funds as follows: (1) to any amounts due and payable on the date received (other than those amounts described in clauses (2) and (3) below), if any, (2) to interest owing on any principal amount, and (3) then to any outstanding principal amount regardless of

whether such amount is due and payable; provided, however, such prepayment shall not cause the Commission to incur a breakage fee for a Libor Rate Loan or if such breakage fee would be incurred the Bank may hold such funds without applying same as set forth above until it receives further written instructions from the Commission. Any amounts prepaid may not be reborrowed.

Section 2.5. Prepayment. Subject to the provisions of Section 2.12, the Commission shall have the right at its option to prepay at any time any Libor Rate Loan or Base Rate Loan without premium or penalty, in integral multiples of One Hundred Thousand Dollars ($100,000) or in full, together with accrued interest as of the date of such prepayment on the amount prepaid. The Commission shall send written notice to Bank of its intent to prepay. Such notice should specify the amount of the prepayment and the Loan(s) to be prepaid. The prepayment notice for a Base Rate Loan must be received by the Bank by [11:00 a.m. San Francisco time] at least one (1) Business Day prior to prepayment date; and a prepayment notice for a Libor Rate Loan must be received by [11:00 a.m. San Francisco time] three (3) Business Days prior to the prepayment date. To the extent the Commission fails to select a Loan, then such prepayment shall be first applied to the Base Rate Loans and then to Libor Rate Loans in inverse order of maturity, provided that prepaying such Libor Rate Loan does not cause the Commission to be liable for any breakage fee or if such breakage fee would be incurred the Bank may hold such funds without applying same as set forth above until it receives further written instructions from the Commission. Any amounts prepaid may not be reborrowed.

Section 2.6. Fees on the Facility.

(a) Upfront Fee. The Commission shall pay to Bank no later than the Closing Date a one time, non-refundable fee equal to 0.35% times the total amount of the Commitment specified in Section 2.1.

(b) Commitment Fee. During the Funding Period, the Commission shall pay Bank a Commitment Fee equal to one-half of one percent (0.50%) per annum on the undisbursed amount of the Term Loan. Any disbursement occurring on the same day as the last day of any calendar quarter shall not be deemed undisbursed for purposes of calculating the Commitment Fee. The Commitment Fee shall be payable quarterly in arrears on the last day of each calendar quarter ending after the date hereof to and including the last day of the Funding Period. Any Commitment Fee paid is non-refundable.

(c) Reimbursement Closing Fees and Expenses. Commission shall pay the Bank an amount not to exceed $42,500 as reimbursement of other fees and expenses related to closing this Loan, including, without limitation, legal fees and expenses. No fees or expenses shall be paid or reimbursed until the Bank submits an invoice for such fee or expense for which it seeks to be paid or reimbursed.

(d) Disbursement, Conversion or other fees. Bank shall not charge any fee or charge in connection with any disbursement of a Loan or the conversion of any Loan. Except as expressly provided for in this Agreement, the Commission shall not be charged any additional fees, charges or assessments in connection with the Loan Documents.

Section 2.7. Default Interest. Upon the occurrence of any Event of Default, to the extent permitted by law, interest on any Loans and any other overdue Obligations shall bear interest for each day from and including the date payment was due to but excluding the date of actual payment at a rate per annum of two percent (2%) above the Base Rate.

Section 2.8. Computation of Interest and Fees. Interest on Base Rate Loans and Commitment Fees shall be computed on the basis of a year of 365 days (or 366 days in a leap year) and paid for actual days elapsed. Interest on Libor Rate Loans shall be computed on the basis of a year of 360 days and paid for actual days elapsed, which results in higher interest payments than if a 365 day year were used.

Section 2.9. Bank's Records.

(a) Bank's Records. Principal, interest, and all other sums owed Bank under any Loan Document in respect of any Obligations shall be evidenced by entries in records maintained by Bank for such purpose. Each payment on and any other credits with respect to principal, interest and all other sums outstanding under any Loan Document in respect of any Obligations shall be evidenced by entries in such records. Bank's records shall be conclusive evidence thereof.

Section 2.10. Subordinate Pledge of Net Revenues.

(a) The Term Loan and all other Obligations shall be secured by a lien on and security interest in the Net Revenue, which lien and security interest shall be junior and subordinate in all respects solely to the liens and security interests in the Net Revenue for the Senior Lien Bonds. For the benefit of the Bank, the Commission hereby grants a lien on and security interest in amounts constituting Net Revenues junior and subordinate in all respects to the liens and security interests in such Net Revenues for the Senior Lien Bonds.

(b) Such lien on and security interest in the Net Revenue shall be irrevocable until the Term Loan and all outstanding Obligations have been paid in full and the Bank has no further Commitment, which shall be determined by Bank's giving written notice to such effect to the Commission (which notice shall be given promptly by the Bank upon the termination or expiration of the Bank's Commitment). Such lien and security interest shall be valid and binding from and after the date hereof and all Net Revenue as and when received by the Commission, shall immediately be subject to such lien without any physical delivery thereof or further act, and such lien and security interest shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Commission.

(c) The repayment of the Term Loan and the Obligations shall be junior and subordinate to the full and timely repayment of principal, premium, if any, and interest on the Senior Lien Bonds. The Loan Documents are subordinate to the Indenture as set forth in this Agreement.

Section 2.11. Limitation on Commission's Obligation.

(a) The Bank expressly understands and agrees that the Commission has no taxing power whatsoever, and nothing herein contained shall be deemed to require the Commission to advance any monies derived from the levy or collection of taxes by the City for the payment of principal of or interest on the Term Loan. Neither the credit nor the taxing power of the City is pledged for the payment of the principal of or interest on the Term Loan, and the General Fund of the City is not liable for the payment of the principal of or the interest on the Term Loan. Bank cannot compel the exercise of the taxing power by the City or the forfeiture of its property or the property of the Commission.

(b) The principal of and interest on the Term Loan and any premiums upon the prepayment of any thereof are not a debt of the Commission nor a legal or equitable pledge, charge, lien or encumbrance upon any of its property or on any of its income, receipts or revenue except the Net Revenue and other funds that may be legally applied, pledged or otherwise made available to their payment as provided herein.

(c) Neither the Commission nor any officer thereof shall be liable or obligated for the payment of the principal of or interest on the Term Loan or for any payment agreed to be made or contemplated to be made pursuant to any of the terms of this Agreement, save and except solely and exclusively from Net Revenue. Nothing herein contained shall prevent the Commission from making advances of its funds howsoever derived to any of the uses and purposes in this Agreement mentioned, provided such funds are derived from any source legally available for such purpose and may be used by the Commission for such purpose without incurring indebtedness.

Section 2.12. Additional Costs.

(a) **Change in Law.** If after the date hereof, the adoption of, or any change in, any applicable law, rule or regulation, or any change therein, or any change in the interpretation or administration thereof by any governmental authority charged with the interpretation or administration thereof (a "**Regulatory Change**"), or compliance by the Bank (or its lending office) with any request, guideline or directive (whether or not having the force of law) of any such governmental authority shall impose, modify or deem applicable any reserve, special deposit or similar requirement (including any such requirement imposed by the Federal Reserve Board, but excluding with respect to any Libor Rate Loan any such requirement included in the calculation of the Libor Rate) against assets of, deposits with or for the account of, or credit extended by, the Bank's lending office or shall impose on the Bank (or its lending office) or on the United States market for the applicable interbank eurodollar market any other condition affecting its Libor Rate or Libor Rate Loans, and the result of any of the foregoing is to increase the cost to the Bank (or its lending office) of making or maintaining any Libor Rate Loan, or to reduce the amount of any sum received or receivable by the Bank (or its lending office) under this Agreement with respect thereto, by an amount deemed by the Bank to be material, then from time to time, within 15 days after demand by the Bank, the Commission shall

pay to the Bank such additional amounts as shall compensate the Bank for such increased cost or reduction.

(b) **Capital Requirement.** If the Bank shall have determined that any Regulatory Change regarding capital adequacy, or compliance by the Bank (or any corporation controlling the Bank) with any request, guideline or directive regarding capital adequacy (whether or not having the force of law) of any governmental authority, has or shall have the effect of reducing the rate of return on the Bank's or such corporation's capital as a consequence of the Bank's obligations hereunder to a level below that which the Bank or such corporation would have achieved but for such adoption, change or compliance (taking into consideration the Bank's or such corporation's policies with respect to capital adequacy), by an amount deemed by the Bank to be material, then from time to time, within fifteen (15) days after demand by the Bank, the Commission shall pay to the Bank such additional amounts as shall compensate the Bank for such reduction.

(c) **Requests.** Any such request for compensation by the Bank under this Section shall state enough detail relating to the compensation sought so that the Commission may independently calculate the requested amount. In the absence of error, the Bank's calculations shall be conclusive and binding for all purposes. The Commission retains the right to establish that the Bank has erred in its calculation. In determining the amount of such compensation, the Bank may use any reasonable averaging and attribution methods.

(d) **Illegality.** If the Bank shall determine that it has become unlawful, as a result of any Regulatory Change, for the Bank to make, convert into or maintain Libor Rate Loans as contemplated by this Agreement, the Bank shall promptly give notice of such determination to the Commission. Such notice shall provide sufficient detail and explanations as to the events and facts supporting the Bank's determination. Upon receiving such notice, the obligation of the Bank to make or convert into Libor Rate Loans shall be suspended until the Bank gives notice that the circumstances causing such suspension no longer exist. Furthermore, the Bank shall have the right to convert any outstanding Libor Rate Loans at expiration of the applicable Interest Rate Period or, if earlier, on such date as may be required by the applicable Regulatory Change. Bank shall include a request for conversion in its written notice. Any such determination shall, in the absence of error, be conclusive and binding for all purposes. The Commission has right to establish that the Bank has erred in its determination.

(e) **Funding Assumptions.** Solely for purposes of calculating amounts payable by the Commission to the Bank under this Section, each Libor Rate Loan made by the Bank (and any related reserve, special deposit or similar requirement) shall be conclusively deemed to have been funded at the interbank rate used in determining the Libor Rate for such Libor Rate Loan by a matching deposit or other borrowing in the London interbank eurodollar market for a comparable amount and for a comparable period, whether or not such Libor Rate Loan is in fact so funded.

Section 2.13. Reimbursement for Funding Losses. If the Commission makes any payment or prepayment of principal bearing interest at the Libor Rate on any day other than the

last day of an Interest Period applicable thereto, then the Commission shall reimburse Bank upon its demand for any loss or expense incurred by Bank, including without limitation any interest paid by Bank to lenders of funds borrowed by it to make or carry a Loan and any loss incurred in obtaining, liquidating or employing deposits from third parties, but excluding loss of margin for the period after any such payment; provided that Bank shall have delivered to the Commission a certificate as to the amount of such loss or expense, and setting forth in reasonable detail the calculation thereof.

Section 2.14.

(a) **No Reduction of Payments.** The Commission shall pay all amounts of principal, interest, fees and other amounts due under the Loan Documents free and clear of. and without reduction for or on account of, any present and future taxes, levies, imposts, duties, fees, assessments, charges, deductions or withholdings and all liabilities (exclusive of penalties or punitive charges which are a result of Bank's negligence or misconduct) with respect thereto excluding, (i) in the case of the Bank, income and franchise taxes imposed on it by the jurisdiction under the laws of which the Bank is organized or in which its principal executive offices may be located or any political subdivision or taxing authority thereof or therein, and by the jurisdiction of the Bank's lending office and any political subdivision or taxing authority thereof or therein and (ii) any present and future taxes, levies, imposts, duties, fees, assessment, charges, deductions or withholding imposed by the City and County of San Francisco (all such nonexcluded taxes, levies, imposts, duties, fees, assessments, charges, deductions, withholdings and liabilities being hereinafter referred to as "Taxes"). If any Taxes shall be required by law to be deducted or withheld from any payment, the Commission shall increase the amount paid so that the Bank receives when due (and is entitled to retain), after deduction or withholdings applicable to additional sums payable under this Section), the full amount of the payment provided for in the Loan Documents provided it is permissible under law.

(b) **Deduction or Withholding; Tax Receipts.** If the Commission makes any payment hereunder in respect of which it is required by law to make any deduction or withholding, it shall pay the full amount to be deducted or withheld to the relevant taxation or other authority within the time allowed for such payment under applicable law and promptly thereafter shall furnish to the Bank an original or certified copy of a receipt evidencing payment thereof, together with such other information and documents as the Bank may reasonably request.

ARTICLE THREE

REPRESENTATIONS AND WARRANTIES

Section 3.1. Except as otherwise provided in Section 3.1(h) hereof, the Commission represents and warrants as follows on the Closing Date, the dates any Loan is advanced during the Funding Period, and the last day of the Funding Period.

(a) **Due Organization.** The Commission is duly constituted public commission of the City and County of San Francisco organized and validly existing pursuant to the State Agreement and the Charter of the City and County of San Francisco.

(b) **Authorization.** The Loan Documents executed by the Commission are within the Commission's powers, have been duly authorized by the Commission and the Board of Supervisors of the City. The Loan Documents have been duly executed and delivered by the Commission.

(c) **No Conflict or Violation.** The Loan Documents do not conflict with or violate the Charter or other applicable State or local law.

(d) **Valid and Binding.** The Loan Documents constitute valid and binding obligations of the Commission, enforceable in accordance with their terms, except insofar as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights and remedies generally, and by general principles of equity, whether applied by a court of law or equity and by limitations on legal remedies against public agencies in the State of California.

(e) **Other Agreements.** The Commission is not a party to any agreement which would prohibit the Commission from entering into the Loan Documents or incurring or performing the obligations under the Loan Documents.

(f) **Defaults.** The Commission is not in default on any agreement or other instrument for borrowed money.

(g) **Event of Default.** No Event of Default or event or condition which with notice or lapse of time or both would constitute an Event of Default has occurred and is continuing.

(h) **Disclosure.** The representations and statements made by the Commission herein or in any Loan Document, or made by the Commission in any other document furnished to the Bank by the Commission in connection herewith or therewith are accurate as of the date of this Agreement. All financial statements of the Commission furnished to the Bank were prepared in accordance with GAAP applied on a consistent basis throughout the periods involved. Since the date of the most recent financial statements referred to in the preceding sentence, no material adverse change has occurred in the business, operations or conditions of the Commission or the management or operation of the Port which might impair the ability of Port to meet its obligations under this Agreement.

ARTICLE FOUR

CONDITIONS PRECEDENT

Section 4.1. **Required Delivery.** The obligation of Bank to extend credit hereunder on the Closing Date is subject to:

(a) the execution and delivery to the Bank by the Commission of this Agreement and the initial Subordinate Note.

(b) the filing of a UCC-1 financing statement evidencing the subordinate lien on the Net Revenues.

(c) delivery to the Bank of opinion(s) of legal counsel.

(d) the payment of all fees and expenses of the Bank provided for in this Agreement.

(e) delivery to the Bank of a Request for Disbursement

ARTICLE FIVE

COVENANTS

Section 5.1. **Payment of Principal and Interest.** The Commission covenants and agrees that it promptly will pay or cause to be paid the principal of and interest on the Term Loan and all other Obligations hereunder at the place, on the dates and in the manner provided herein, but solely from the sources pledged to such payment.

Section 5.2. **Covenant to Maintain Net Revenue Coverage:** The Commission covenants and agrees that it will maintain its business operations and establish and maintain at all times rentals, rates, fees and charges for the use of the Port Area and for services rendered by the Commission in connection with the Port Area so that Net Revenue less the annual debt service on the Revenue Bonds and the City Bonds in each Fiscal Year will be at least equal to one hundred fifteen percent (115%) of aggregate Annual Debt Service for such Fiscal Year.

Section 5.3. **Operation and Maintenance of Port Area.**

(a) The Commission covenants that it will operate and maintain the Port Area as a revenue producing enterprise in accordance with the Act. The Commission will make such repairs to the Port Area as shall be necessary or appropriate in the prudent management thereof. The Commission covenants that it will operate and maintain the Port Area in a manner which will entitle it at all times to charge and collect fees, charges and rentals in accordance with Port use agreements, if any, or as otherwise permitted by law, and shall take all reasonable measures

permitted by law to enforce prompt payment to it of such fees, charges and rentals when and as due.

(b) The Commission will, from time to time, duly pay and discharge, or cause to be paid and discharged, any taxes, assessments or other governmental charges lawfully imposed upon the Port Area or upon any part thereof, or upon the revenue from the operation thereof, when the same shall become due, as well as any lawful claim for labor, materials or supplies which, if unpaid, might by law become a lien or charge upon the Port Area or such revenue, or which might materially impair the security of the Bank. Notwithstanding the foregoing, the Commission need not pay or discharge any tax, assessment or other governmental charge, or claim for labor, materials or supplies, if and so long as the Commission shall contest the validity or application thereof in good faith. If a final unappealable judgment has been entered against the Commission, then the Commission shall pay the amounts required by said judgment.

(c) The Commission will continuously operate the Port Area so that all lawful orders of any governmental agency or authority having jurisdiction in the premises shall be complied with, but the Commission shall not be required to comply with any such orders so long as the validity or application thereof shall be contested in good faith.

Section 5.4. Maintenance of Powers; Retention Assets.

(a) The Commission covenants that it will use its best efforts to maintain the powers, functions, duties and obligations now reposed in it pursuant to law, and will not at any time voluntarily do, suffer or permit any act or thing the effect of which would be to hinder, delay or imperil either the payment of the indebtedness evidenced by the Term Loan or any other Obligation secured hereby or the performance or observance of any of the covenants or other agreements contained in the Loan Documents.

(b) The Commission covenants that it will not dispose of material assets necessary to operate the Port Area in the manner and at the levels of activity required to enable it to perform its covenants contained in the Loan Documents.

Section 5.5. Insurance. Subject in each case to the condition that insurance is obtainable at reasonable rates from responsible insurers and upon reasonable terms and conditions, the Commission shall procure or provide and maintain, at all times while any of the Bonds shall be outstanding, insurance or a self-insurance program on the Port Area against such risks as are usually insured by other ports which are similar in their operations to the Port Area. Such insurance or self-insurance program shall be in an adequate amount as to the risk insured against as reasonably determined by the Commission. The Commission need not carry insurance or maintain self-insurance program against losses caused by land movement, including, but not limited to, seismic activity.

Section 5.6. Financial Records and Statements. The Commission shall maintain proper books and records; full and correct entries shall be made in accordance with GAAP, of all

its business and affairs. The Commission shall have an annual audit made by an Independent Auditor and shall within one hundred eighty (180) days (but in any event, as soon as publicly available) after the end of each of its Fiscal Years furnish to Bank a copy of the audited financial statements of the Commission for such Fiscal Year.

Section 5.7. **Adoption of Maintenance and Operation Budget.** In order to assure the efficient management and operation of the Port Area, the Commission covenants and agrees that it will each year prepare a preliminary budget for monies in the Enterprise Fund with respect to all Operation and Maintenance Expenses (the **"Operation and Maintenance Expense Budget"**). Such Operation and Maintenance Expense Budget shall be exclusive of expenditures with respect to capital expenditures. Such Operation and Maintenance Budget shall be prepared in tentative form on or before June 1 of each year to cover the ensuing Fiscal Year. Such preliminary budget shall be subject to amendment and final adoption, and shall be finally adopted by action of the Commission, and when finally adopted shall become the final budget of the Commission and shall be submitted to the Board of Supervisors of the City for approval.

Section 5.8 **Revenue Bonds.** The Commission may issue Revenue Bonds provided that all the conditions and requirements for the issuance of such Revenue Bonds contained in the Indenture are met. Any Revenue Bonds hereinafter issued shall be Senior Lien Bonds for the purpose of the Loan Documents.

Section 5.9 **Regulation U.** The Commission shall not request or obtain any Loan for the purpose of purchasing or carrying any margin stock (within the meaning of Regulation U of the Federal Reserve Board); the Commission is not engaged and shall not engage in the business of extending credit to others for such purpose; and no part of any Loan will be used to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock.

Section 5.10 **Affirmation of Representation and Warranties.** The Commission shall deliver a certificate reaffirming the representation and warranties contained in Article Three when the Commission delivers its audited financial statements to the Bank.

Section 5.11 **Modifications to Other Documents.** The Commission may not amend Section 2.09 of the Indenture, any of the defined terms set forth therein, or any of the loan documents relating to the Cal-Boating Loan without the Bank's prior written consent in each instance.

Section 5.12 **Incurrence of Indebtedness.** The Commission may not incur any additional indebtedness with a pledge, lien or security interest on par with the lien granted to the Bank hereunder unless the Net Revenues in the most recent Fiscal Year are at least equal to one hundred fifteen percent (115%) of the Maximum Annual Debt Service on the Term Loan and the proposed indebtedness to be incurred. The foregoing limitation does not apply to (i) any Senior Lien Bonds or (ii) any indebtedness with a pledge, lien on or security interest in Net Revenues which are junior and subordinate to the Term Loan. The foregoing calculation shall be done by

an independent certified public accountant selected by the Commission and reasonably acceptable to the Bank; and such calculation shall be conclusive.

Section 5.13 Further Assurances. The Commission shall, at the Bank's request, take such further action as is reasonably requested by the Bank in connection with the performance of the Commission's obligations under the Loan Documents.

ARTICLE SIX

BANK REPRESENTATION, WARRANTIES AND COVENANTS

Section 6.1. Representations and Warranties. Bank represents and warrants as follows:

(a) Bank is duly organized and validly existing in good standing under the laws of the State of _____.

(b) The execution, delivery and performance of all Loan Documents executed by Bank are within Bank's powers, have been duly authorized and are not in conflict with the terms of the organizational documents of the Bank or any laws affecting the Bank; all such Loan Documents are valid binding obligations of the Bank, enforceable in accordance with their terms, except insofar as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights and remedies generally, and by general principles of equity, whether applied by a court of law or equity.

(c) Bank is and shall be throughout the Funding Period, a national bank association, a corporation subject to registration with Board of Governors of the Federal Reserve System under the Bank Holiday Company Act of 1956 or other domestic corporation, whose unsecured obligations or uncollateralized debt obligations have been assigned a long-term debt rating of at least "A2" by Moody's and an "A" by Standard & Poor's, respectively.

Section 6.2. Rating Downgrade. Bank agrees to immediately notify the Commission should either of its ratings fall below the requirements specified above in Section 6.1(c) during the Funding Period.

ARTICLE SEVEN

EVENTS OF DEFAULT

Section 7.1. Events of Default.

(a) Events of Default. The following events shall constitute an event of default under this Agreement:

(i) Commission shall fail to make any payment of principal or interest when due under this Agreement and such failure continues for more than three (3) Business Days after Bank gives written notice to the Commission of the delinquency; provided, that, any principal amount not paid when originally due (irrespective of any grace period hereunder) shall accrue interest at the default rate described in Section 2.7 from the due date until paid.

(ii) Commission shall fail to make any payment of any fees or other charges when due and such failure continues for more than ten (10) days after any fees or other charges are due.

(iii) Commission shall fail to perform any obligation other than as described in clauses (i) and (ii) above under any Loan Document and such failure continues for more than sixty (60) days after the Bank gives notice to the Commission of such failure provided that any non-performance of obligations under Sections 5.2, Section 5.8 and Section 5.12 shall be immediate Events of Default without any grace period or requirement of notice.

(iv) Any material representation or warranty made, or financial statement, certificate or other document provided, by Commission shall prove to have been false or misleading in any material respect.

(v) Commission shall fail to pay its debts generally as they become due or shall file any petition or action for relief under any bankruptcy, insolvency, reorganization, moratorium, creditor composition law, or any other law for the relief of or relating to debtors; an involuntary petition shall be filed under any bankruptcy law against Commission which petition is not dismissed within sixty (60) days of the filing, or a custodian, receiver, trustee, assignee for the benefit of creditors, or other similar official, shall be appointed to take possession, custody or control of the properties of Commission.

(b) Remedies. The occurrence of any of the events described above shall (1) terminate any obligation of Bank to make any further disbursement under this Agreement; and shall, at Bank's option; (2) make all sums of interest, principal and any other amounts owing under any Loan Documents immediately due and payable without notice of default, presentment or demand for payment, protest or notice of nonpayment or dishonor or any other notices or demands subject to subsection (c) below; and (3) give Bank the right to exercise any other right or remedy provided by contract or applicable law. In connection with an action against the Commission in which the Bank is the prevailing party, Bank shall be entitled to recover its reasonable cost incurred in such action, including reasonable attorneys fees and expenses.

(c) Limited Acceleration Right. Notwithstanding anything to the contrary in the Loan Documents, Bank may not elect to accelerate the amounts due and owing hereunder unless and until an acceleration of the Senior Lien Bonds has occurred under Section 7.02 of the Indenture. No limitation is intended hereunder with respect to the Bank's ability to exercise any of its other rights or remedies under the Loan Documents or at law.

(d) **Automatic Conversion of Libor Loans and Default Rate.** Upon an Event of Default, all Libor Rate Loans shall automatically convert into Base Rate Loans at the end of the applicable Interest Period and shall accrue interest at the default rate.

ARTICLE EIGHT

DISCHARGE OF OBLIGATIONS

Section 8.1. Discharge of Obligations.

(a) Subject to the effect of Section 2.12, the Commission, at its sole option, may elect to either:

(i) prepay any or all outstanding Loans, in whole or in part, pursuant to Section 2.5; or

(ii) deposit with a trustee or escrow agent for the exclusive benefit of Bank, sufficient monies or Federal Securities, the principal of and the interest on which securities when due will provide monies sufficient to pay all principal and interest on any or all outstanding Loans to the prepayment date or dates so specified by the Commission, provided that the Bank shall have received the report of an independent certified public accountant or firm of such accountants or others in a form and substances satisfactory to Bank to the effect that the amount deposited is sufficient to make the payments specified herein with respect to the payment of Loans to be prepaid,

(b) Upon the Commission satisfying either (i) or (ii) in subsection (a) above, and so long as all other Obligations have been paid and Bank has no further Commitment, the subordinate pledge of and lien on Net Revenues provided herein shall terminate and all right, title and interest of the Bank herein and the obligation of the Commission hereunder with respect to Loans to be prepaid, as applicable, shall thereupon cease, terminate, become void and become completely discharged and satisfied.

ARTICLE NINE

GENERAL PROVISIONS

Section 9.1. Notices. Unless otherwise expressly specified or permitted by the term hereof, all notices, consents or other communications required or permitted hereunder shall be deemed sufficiently given or served if given in writing, mailed by first class mail, postage prepaid and addressed as follows:

To Commission:

San Francisco Port Commission
Ferry Building, Suite 3100
San Francisco, CA 94111
Attn: Finance Manager
Phone: (___) ___-____
Fax: (___) ___-____

with copies to Port's General Counsel

To Bank:

_____
_____
_____
Attn: Manager, Loan Section
Phone: (___) ___-____
Fax: (___) ___-____

Each party may change the address to which notices, requests and other communications are to be sent by giving written notice of such change to the other party.

Section 9.2. **Binding Effect.** The Loan Documents shall be binding upon and inure to the benefit of Commission and Bank and their successors and assigns; provided, however, that Commission and Bank may not assign or transfer their respective rights or obligations under any Loan Document without the other's prior written consent.

Section 9.3. **Amendments and Waivers.** No amendment to any provision of this Agreement and the other Loan Documents shall be effective unless it is in writing and has been signed by the Bank and the Commission, and no waiver of any provision of this Agreement or any other Loan Document, or consent to any departure by the Commission shall be effective unless it is in writing and has been signed by the Bank and the Commission. Any such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. All amendments and waivers require approval of the Bank, Commission and Board of Supervisors.

Section 9.4. **Rights Cumulative.** All rights and remedies existing under the Loan Documents are cumulative to, and not exclusive of, any other rights or remedies available under contract or applicable law.

Section 9.5. **Unenforceable Provisions.** Any provision of any Loan Document which is prohibited or unenforceable in any jurisdiction, shall be so only as to such jurisdiction

and only to the extent of such prohibition or unenforceability, but all the remaining provisions of any such Loan Document shall remain valid and enforceable.

Section 9.6. **Governing Law.** Except as may be otherwise expressly stated therein, the Loan Documents shall be governed by and construed in accordance with, the laws of the State of California. Both parties agree that any actions to enforce the provisions hereof must be brought in a state or federal court of competent jurisdiction only within the State of California.

Section 9.7. **Accounting Terms.** Except as otherwise provided in this Agreement, accounting terms and financial covenants and information shall be determined and prepared in accordance with GAAP.

Section 9.8. **Prohibited Interests.** Bank states that it is familiar with provisions of Section 8.105 of the Charter of the City of San Francisco, and Section 87100 et seq. of the Government Code of the State of California, incorporated herein by reference and made a part hereof, and certifies that it does not know of any aspects of its business or personal practices that constitute a violation of said sections. No member of the Board of Supervisors of the City and County of San Francisco, officer or employee of the City and County of San Francisco during his or her tenure or for one year thereafter shall have an interest, direct or indirect, in this Agreement or the proceeds thereof. No officer, director, or employee of Bank, nor any member of a Bank officer's, director's, employee's or family, shall serve on a City board or committee, or hold any position that either by rule, practice or action nominates, recommends, or supervises Bank's operations, or authorizes funding to Bank.

Section 9.9. **Assignment**. The Commission shall not have the right to assign its rights and obligations under the Loan Documents or any interest in the Loan Documents without the prior written consent of the Bank not to be unreasonably withheld if assigned or transferred to the State of California. The Bank shall not sell, assign or transfer all or any portion of the Bank's rights and obligations under Loan Documents during the Funding Period without the prior written consent of the Commission not to be unreasonably withheld. · After the Funding Period, Bank may sell, assign or transfer all or any portion of the Bank's rights and obligations under Loan Documents to any party that can comply with all the terms and conditions in the Loan Documents, provided that such sale or transfer is not a "public offering" as defined in the Securities Act of 1933. In connection with the foregoing assignment, Bank must provide the Commission prior written notice.

Section 9.10. **Commission Acting in Proprietary Capacity Only.** Commission understands and agrees that the Commission is entering into this Agreement in its proprietary capacity and not as a regulatory agency with police powers. Nothing in this Agreement shall limit in any way Commission's obligation to obtain any required approvals from City departments, boards, or commissions having jurisdiction over this matter.

Section 9.11. **Consent.** If consent or approval of Commission is required, such consent or approval must be given by the Executive Director of the Commission. The giving of

consent or approval in any one or more instances shall not be deemed to limit or excuse the need for such consent or approval in any other or subsequent instances.

Section 9.12. MacBride Principles. The City urges companies doing business in Northern Ireland to move towards resolving employment inequities and encourages such companies to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 *et seq.* The City also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Contractor acknowledges that it has read and understands the above statement of the City concerning doing business in Northern Ireland.

Section 9.13. Tropical Hardwood Ban. The City urges companies not to import, purchase, obtain or use, for any purpose, any tropical hardwood or any tropical hardwood product.

Section 9.14. Drug-Free Work Place. If Bank is required by its performance under this Agreement to comply with the Drug Free Work Place Act of 1988 (Pub. L. 100-690, Title V, Subtitle D), Bank shall abide by all applicable terms and conditions of that Act.

Section 9.15. Burma (Myanmar) Business Prohibition.

(a) Bank is not the government of Burma (Myanmar), a person or business entity organized under the laws of Burma (Myanmar) or a "prohibited person or entity" as defined in Section 12J.2(G) of the San Francisco Administrative Code. The Commission reserves the right to terminate this Agreement for default if Bank violates the terms of this Section 9.15.

(b) Chapter 12J of the San Francisco Administrative Code is hereby incorporated by reference as though fully set forth herein. The failure of Bank to comply with any of its requirements shall be deemed a material breach of this Agreement. In the event that Bank fails to comply in good faith with any of the provisions of Chapter 12J of the San Francisco Administrative Code, Bank shall be liable for liquidated damages for each violation in an amount equal to Bank's net profit under this Agreement, or 10% of the total amount of the contract, or $1,000, whichever is greatest. Bank acknowledges and agrees that the liquidated damages assessed shall be payable to the City upon demand and may be set off against any moneys due to the Contractor from any City contract.

Section 9.16. Captions. All the captions contained in this Agreement are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

Section 9.17. Equal Employment Opportunities and Equal Benefits.

(a) Bank agrees to comply fully with all provisions of Chapters 12B and 12D of the San Francisco Administrative Code, as amended from time to time (the "**Administrative**

Code"). Such provisions are incorporated herein by reference and made a part of this Agreement as though fully set forth herein.

(b) In the event Bank willfully fails to comply with any of the provisions of Chapter 12D, Bank shall be liable for liquidated damages for each contract in an amount equal to Bank's net profit on the contract, or ten percent (10%) of the total amount of the contract, or one thousand dollars ($1,000), whichever is greatest. The amount of liquidated damages imposed will be determined by the Director of the Human Rights Commission ("**HRC**") after investigation pursuant to Section 12D.14(c). By entering into this Agreement, Bank acknowledges and agrees that any liquidated damages assessed by the Director of the HRC shall be payable to City upon demand. Bank further acknowledges and agrees that any liquidated damages assessed may be withheld from any moneys due to Bank on any contract or agreement with City.

(c) Pursuant to Section 12B.2(h) of the Administrative Code, a penalty of fifty dollars ($50) for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be deducted from payments due to Bank.

Section 9.18. **Participations.** Bank shall not participate or assign any portion of the Term Loan in a public offering as defined in the Securities Act of 1933 without the prior written consent of the Commission.

Section 9.19. **Benefits of Agreement.** The Loan Documents are entered into for the sole protection and benefit of the parties hereto and their successors and assigns, and no other Person shall be a direct or indirect beneficiary of, or shall have any direct or indirect cause of action or claim in connection with, any Loan Document.

Section 9.20. **Binding Effect.** This Agreement shall become effective when it shall have been executed by the Commission and the Bank and thereafter shall be binding upon. inure to the benefit of and be enforceable by the Commission, the Bank and their respective successors and assigns.

Section 9.21. **Entire Agreement.** The Loan Documents reflect the entire agreement between the Commission and the Bank with respect to the matters set forth herein and therein and supersede any prior agreements, commitments, drafts, communication, discussions and understandings, oral or written. with respect thereto.

Section 9.22. **Severability.** Whenever possible, each provision of the Loan Documents shall be interpreted in such manner as to be effective and valid under all applicable laws and regulations. If, however, any provision of any of the Loan Documents shall be prohibited by or invalid under any such law or regulation in any jurisdiction, it shall, as to such jurisdiction, be deemed modified to conform to the minimum requirements of such law or regulation, or, if for any reason it is not deemed so modified, it shall be ineffective and invalid

only to the extent of such prohibition or invalidity without affecting the remaining provisions of such Loan Document, or the validity or effectiveness of such provision in any other jurisdiction.

Section 9.23. Survival. All covenants, agreements, representations and warranties made by the Commission in any Loan Documents shall, except to the extent otherwise provided therein, survive the execution and delivery of this Agreement, the making of the Loans, and shall continue in full force and effect so long as the Bank has any Commitment, any Loans remain outstanding or any other Obligations remain unpaid or any obligation on the part of the Commission to perform any other act under any Loan Document remains unsatisfied.

Section 9.24. Indemnity. The Commission hereby agrees to indemnify the Bank from and against any and all claims, damages, losses, liabilities, costs or expenses whatsoever (including, without limitation, reasonable attorneys' fees and expenses) incurred by reason of or in connection with the enforcement or preservation of the Bank's rights hereunder or under any other Loan Document; provided, however, that the Commission shall not be required to indemnify the Bank for any claims, damages, losses, liabilities, costs or expenses to the extent caused by the Bank's gross negligence or willful misconduct. Notwithstanding any other provision of this Agreement or any of the other Loan Documents, the Commission's obligation to make payment pursuant to this Section 9.24 shall be payable only from the Net Revenues of the Port.

IN WITNESS WHEREOF, Commission and Bank have executed this Agreement as of the date set forth in the preamble.

CANADIAN IMPERIAL BANK OF COMMERCE, New York Branch

By: _____
Name: _____
Title: _____

PORT COMMISSION OF SAN FRANCISCO

By: _____
Name: _____
Title: _____

Approved as to form and legality this
___ day of _____, 1997

LOUISE H. RENNE
City Attorney

By: _____
Deputy City Attorney

EXHIBIT A

FORM OF SUBORDINATE NOTE

EXHIBIT B

FORM OF REQUEST FOR DISBURSEMENT

SAN FRANCISCO
PORT COMMISSION

MAY 5, 1997
MINUTES OF THE SPECIAL MEETING

MEMBERS, PORT COMMISSION

HON. MICHAEL HARDEMAN, PRESIDENT
HON. DENISE McCARTHY, VICE PRESIDENT
HON. FRANKIE G. LEE
HON. JAMES HERMAN

DOUGLAS F. WONG, EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

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CITY & COUNTY OF SAN FRANCISCO
PORT COMMISSION

MINUTES OF THE SPECIAL MEETING
MAY 5, 1997

1. ROLL CALL

The meeting was called to order by Commission President Michael Hardeman at 2:07 p.m. The following Commissioners were present: Michael Hardeman, Denise McCarthy, Frankie Lee and James Herman.

2. FINANCE AND ADMINISTRATION

Authorization for the Port to enter into a ten-year loan for $12 million to finance the Maintenance Facility Relocation Project and the CalTrans Site Acquisition Project and related closing costs; authorization for the Executive Director to negotiate an interest rate cap to mitigate interest rate risk on the loan, and, authorization for a Supplemental Appropriation to appropriate loan proceeds for the Maintenance Facility Relocation Project. (Resolution No. 97-38)

Mr. Ben Kutnick, Director of Finance and Administration, stated that minor changes were made to the original memorandum and extensive changes were made to the resolution. The most significant of which is staff recommends deleting the $4.5 million from the supplemental appropriation for the funding of the CalTrans purchase at this time. Staff will seek approval from the Commission at a later time once the negotiation is close to being finalized. Staff also requested the Commission to authorize the Executive Director to make non-material changes to the loan and cap agreement if they do not increase the cost or obligations or liability of the Port.

Mr. Kutnick mentioned that this is for the purchase of the CalTrans site and the relocation of the Port's Maintenance Department to Pier 50D Shed. Several improvements have to be made to Pier 46. Mr. Doug Wong and Alex Lee were able to reduce the overall cost of the project from its original estimate of in excess of $17 million to $12 million. This was accomplished by having the Port maintenance personnel perform the work rather than hiring contractors. As well, significant improvements to Pier 50D were also made by the Port's maintenance personnel. The total cost for the Maintenance Relocation Project is $7,050,000. The total cost for the CalTrans Site Acquisition Project is $4,450,000 although these funds will not be appropriated at this time. The cost of the loan issuance is

$500,000.

Port tenants will be relocated from Pier 46B to Piers 50, Sheds A, B and C. A cost benefit analysis, comparing the cost of the improvements to those facilities with the revenue, was conducted by staff. The overall payback period is estimated to be 2-½ years. The overall return investment is 28.6 percent.

The CalTrans site is $3.6 million. The Port has committed up to half a million dollars for tenant relocation. There is approximately $350,000 in closing cost associated with the deal.

Loan Terms and Conditions: Staff proposed to borrow up to a ceiling of $12 million. There is a one-year draw period, which means funds have to be drawn down from the bank within 12 months of closing the loan. The repayment period is a ten-year term to be made in equal quarterly principal payments. There is no prepayment penalty if the debt is repaid on an interest payment date. The loan fee will be $42,000. The commitment fee will be 50 basis points on the undrawn commitment during the one year draw period based on the actual draw amount.

Commissioner Lee asked if the Port has to pay for the commitment fee for the amount that is not being used during the year. Mr. Kutnick replied to the affirmative because the bank has committed to the availability of the funds. It was his understanding that this is a standard provision for commercial loans. After one year, the draw period is over and there is no commitment fee. We simply pay for interest on the balance of the loan.

Mr. Kutnick reiterated that staff is requesting Commission's approval of the $12 million loan. However, staff at this time is not requesting approval for the supplemental appropriation authorizing the expenditure of these funds for the CalTrans project. Commissioner Lee asked why not. Legal Counsel Julie Van Nostern replied that the process of environmental review has not been completed. Until such time that the environmental review process has been completed and the Port Commission and Board of Supervisors take final action, which will all culminate at the time of the lease process, we would not be in a position to go forward with the sale. The Commission cannot approve an expenditure of those funds associated with the acquisition of the CalTrans site. Ms. Van Nostern indicated that is specifically stated in the first "WHEREAS" and the last "RESOLVED" on page 3 of the resolution.

Commissioner McCarthy inquired if this is going to be a problem with the yearly draw-down. Mr. Kutnick replied that this will not pose a problem. Mr. Kutnick indicated that the interest rate during the draw period is LIBOR+75 basis points (bp) or base rate + 25bp spread. The interest rate on the term loan is LIBOR +

80 bp or base rate + 40bp spread. The default rate is base rate + 2 percent.

Commissioner Lee inquired about the definition of LIBOR rate. Mr. Kutnick replied that LIBOR rate is an international index that is used in the market to set rates. The majority of the fees for the loan is for the estimated cost of interest rate cap. The cost is very low in comparison to a regular bond deal. With regard to the LIBOR Index, the Port has a choice of setting interest rates on each period using a one-month, 2-month, 3-month or 6-month LIBOR. Events of default would include non-payment of principal interest, non-payment of any other bank fees, bankruptcy, failure to cure any breach of a covenant within 60 days of receiving written notice that the Port is in breach of a covenant.

Commissioner Herman stated that he has always been perplexed concerning interest payment, which is a negotiated amount and an added penalty if the interest is paid in advance. He thinks this is a double whammy and he knows that it is commonly practiced or it is practiced with some regularity. He inquired if the Port is free to use those monies for some other purposes, independent of what you got the loan for, as long as you meet the deadline for repaying it? Mr. Kutnick replied that if the Port were to prepay the loan, the lender wouldn't have a whole lot of concern as to how the money will be spent. However, the Commission, the Board and the Mayor would have more concern than the lender if the Port had a change of mind on how to expend the proceeds. If the Port prepays the principal on the loan, there is no longer an interest and the lender then should not care.

Commissioner Lee interjected that the report states that there is no prepayment penalty as long as you pay the principal. Commissioner Herman inquired if this could be reviewed again because if the Port borrows X number amount of dollars and because of the Port's due diligence accumulates the money in advance of the target date, it seems that a penalty for showing good faith is incomprehensible. Mr. Kutnick replied that there are no penalties. The Port has exclusive authority, independent of the bank, to refinance and prepay them. The only restriction is interest payment dates are every 90 days. As long as you make the prepayment on that interest payment dates, there is no prepayment penalty.

Mr. Kutnick indicated that staff is recommending to buy the interest "cap" to protect ourselves against increases in interest rates on a variable rate loan. He also requested Commission's approval to delegate to the Executive Director the authority to enter into "interest rate cap" agreement and some parameters, i.e. the cap would be between 8.5% and 9% and the cost would be no more than $400,000. Staff expects that this item will be heard at the Finance Committee on May 21st.

Ms. Julie Van Nostern clarified that what the Commission is approving is the revised resolution.

In response to Commissioner Lee's inquiry if the City & County of San Francisco has ever done any commercial loan, Mr. Kutnick replied that this is the first time.

Mr. Kutnick commended Stephanie Downs, the Port's Finance Manager, for all her work in putting the document together as well as Julie Van Nostern, John Rakow and Victor Castillo of the City Attorney's office. Katherine Payer, standing in for the vacationing Victor Castillo, also contributed a lot of time on this document.

For public information, Commissioner Lee asked for an explanation of why the Port is doing a commercial loan instead of the traditional bond. Mr. Kutnick indicated that: (1) a commercial loan is less expensive; (2) it takes less time to put the documents together; (3) most of the financing items could not be considered for municipal tax exempt debt, half of the project would have been taxable; (4) interest is paid only against what is drawn down; and (5) it is significant cost savings and gives us a lot of flexibility.

In response to Commissioner Lee's inquiry of why other agencies are not using this approach, Mr. Kutnick replied that most agencies are subject to voter approval. The City Charter exempts the Port and the Airport from voter approval on debt issues.

Commissioner McCarthy thanked Mr. Kutnick and his staff for the thorough, excellent briefing provided her. Commissioner Herman complimented everyone for their good work. Commissioner Hardeman echoed Commissioner McCarthy's comments of a thorough briefing they have received. He commended Commissioner Lee for asking questions so that the public is aware.

ACTION: Commissioner Lee moved approval of the revised resolution; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

The meeting was adjourned at 2:40 p.m.

SAN FRANCISCO
PORT COMMISSION

SPECIAL JOINT MEETING
with the WATERFRONT PLAN ADVISORY BOARD
MONDAY, MAY 12, 1997, 4:30 P.M. **[Please note meeting date & time]**
FERRY BUILDING, SUITE 3100
SAN FRANCISCO, CALIFORNIA

AGENDA

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1. **PORT COMMISSION ROLL CALL**

2. **EXECUTIVE DIRECTOR'S REPORT**

3. **PLANNING AND DEVELOPMENT**

   Update on the Status of the Draft Waterfront Land Use Plan: The staff presentation will include a briefing and public comments on the Draft Waterfront Design & Access Element of the Waterfront Land Use Plan, proposed schedule for Plan adoption, and status report on conforming amendments to San Francisco Planning Commission and Bay Conservation and Development Commission planning documents.

4. **NEW BUSINESS/PUBLIC COMMENT**

   Public comment is permitted on any matter within Port jurisdiction, and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. Please fill out a speaker card and hand it to the Commission Secretary. Each speaker is limited to three minutes.

5. **ADJOURNMENT**

Note: Copies of all reports and analyses, and minutes for all Waterfront Plan Advisory Board meetings are maintained at the Port's offices and at the Civic Center Main Library. If you would like to obtain any of these materials, be added to the mailing list, or have questions about the Waterfront Plan project, please call the Waterfront Plan hotline, (415) 274-0354 and state your concern. Port staff will respond promptly to all messages received.

In accordance with the Americans with Disabilities Act (ADA), measures are being taken and services are available to ensure that all public meetings at the Port are accessible to persons with disabilities. See the reverse side for a list of services and phone number contacts to make advance arrangements for their availability.

DISABILITY ACCESS

The Port Commission office is located on the third floor of the Ferry Building, Suite 3100. The Port office is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) will be available. The closest accessible BART station is Embarcadero Station located at Market and Steuart Streets. The closest accessible MUNI Metro station is Embarcadero station located at Market and Spear Streets. Accessible MUNI lines serving the Ferry Building are the 9, 31, 32 and 71. For more information about MUNI accessible services, call 923-6142.

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SAN FRANCISCO
PORT COMMISSION

MAY 12, 1997
MINUTES OF THE SPECIAL MEETING

MEMBERS, PORT COMMISSION

HON. MICHAEL HARDEMAN, PRESIDENT
HON. DENISE McCARTHY, VICE PRESIDENT
HON. FRANKIE G. LEE
HON. JAMES HERMAN

DOUGLAS F. WONG, EXECUTIVE DIRECTOR

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CITY AND COUNTY OF SAN FRANCISCO
PORT COMMISSION

MINUTES OF THE SPECIAL JOINT MEETING with the WATERFRONT PLAN ADVISORY BOARD MAY 12, 1997

1. ROLL CALL

The meeting was called to order by Commission President Michael Hardeman at 4:40 p.m. The following Commissioners were present: Michael Hardeman, Denise McCarthy, Frankie Lee and James Herman.

Commissioner Hardeman acknowledged the members of the Waterfront Advisory Committee. Jim Eschen, Nan Roth, Jane Morrison, Bob Tibbits, Denise Conley, Julia Viera, Toby Levine, Stan Moy, Peter Moylan, Bob Tufts.

2. EXECUTIVE DIRECTOR'S REPORT

Mr. Douglas Wong indicated that the Waterfront Plan is in the final stages of review and comment prior to be considered for final adoption by the Port Commission. Consistent with the periodic project status reports, which staff has prepared for the Port Commission and the Advisory Board, staff will discuss the Waterfront Land Use Plan (WLUP) particularly focusing on the design and access element which sets forth policies and design criteria for public access and open space, waterfront views and preservation of historic resources on future waterfront projects. Staff will also review the proposed schedule for plan adoption and answer any questions that may arise. As the completion of this intensive public planning effort approaches, he expressed his appreciation to the Waterfront Plan Advisory Board and the Technical Advisory Board. Although most of the work occurred before his arrival, he is aware of the countless hours of volunteer time that both the committees have made for the future of the Port and San Francisco's waterfront. He pointed that their commitment has been extraordinary. He fully supports the waterfront plan's design and access element. It is a blueprint for future waterfront projects which balances the Port's diversed maritime, public access, commercial, environmental and operational responsibilities in a manner which will further enhance public enjoyment and appreciation of this spectacular waterfront.

3. PLANNING AND DEVELOPMENT

Update on the Status of the Draft Waterfront Land Use Plan: The staff presentation will include a briefing and public comments on the Draft Waterfront Design &

Access Element of the Waterfront Land Use Plan, proposed schedule for Plan adoption, and status report on conforming amendments to San Francisco Planning Commission and Bay Conservation and Development Commission planning documents.

Ms. Diane Oshima indicated that the waterfront advisory board and the Commission have spent a great deal of time to produce the Waterfront Land Use Plan (WLUP). It is a document available to the public. An environmental impact report for the WLUP was completed in January. During the time that the EIR was produced, a separate, follow-up planning process to develop the urban design guidelines was established, which is a major component of the overall WLUP and one of a number of implementing features of the Plan. The WLUP provides the land use policies which will guide revitalization of the waterfront, including policies for maritime, commercial and recreation uses for each of the Port's piers and upland sites. The Waterfront Design and Access Element provides design criteria for each of the Port's piers and upland sites and includes a special focus on public access and open space, historic preservation and views. Discussions and joint working efforts were held with BCDC and the City Planning staffs to develop amendments to the planning documents. Staff has also been in negotiations on a number of policies and regulatory items. A draft concept agreement was developed in December by BCDC, Port and Save San Francisco Bay Association. A number of those provisions were incorporated into the Design and Access Element because it pertains to where public access, pier removals and historic preservation should take place. She noted that the discussion and conclusion of all the required details in order to implement that concept agreement are still in progress. The negotiation process may still result in some refinements to the provisions as they are presented in the design and access elements, in which case, public hearings will be scheduled.

Mr. Dan Hodapp discussed the Technical Advisory Committee (TAC) and public review process. He noted that development of the Waterfront Plan Design and Access Plan took more than a year to accomplish. Members of the committee representing City organizations with expertise in waterfront design and public access and planning issues. The members of the Committee are: Sylvia Kwan (AIA), Vince Latanzio (ASLA), Jeff Heller (SPUR), Stewart Martin (Landmarks Advisory Group and Heritage), Toby Levine, Marc Holmes (Save San Francisco Bay Association), Joe LeClair (BCDC), Eva Liebermann (City Planning) and John Kriken (Skid Owings and Merrill). The TAC met once a month, reviewed opportunities and constraints for all sites along the waterfront. They looked at the types of open spaces, views and historic resources that exist along Port property. They established goals and policies for open space, views and historic resources and developed design criteria for each site along the waterfront. They also met with various groups such as BCDC design review board, SPUR, AIA, Urban Design Historic Preservation subcommittees and the Landmarks Board and

Heritage foundation and they intend to continue with the public review and process.

Eva Liebermann, City Planning and also a member of the TAC Committee, believed that working on the committee was most gratifying and it was a productive process because the group had different view points. They benefited from the wide variety of professions represented. The successful process was also due to the staff's preparation before every session. The issues were clearly laid out. He gave high praised to Dan Hodapp of the Port and Evan Rose from the Planning Department who did a fabulous, solid research. She also thanked Diane Oshima, Anne Cook and Kate Nichol. The resulting document is readable and beautiful.

Toby Levine, representing the Waterfront Advisory Board, stated that they did have many, long hours of good work. The members of the TAC were very cooperative. The whole process moved forward in a very smooth, thoughtful manner. She and the TAC committee are satisfied with the document as an implementation tool of the WLUP. The members of TAC were very talented and brought the right kinds of expertise and know-how, which was extremely helpful. Another important step was keeping in mind the other existing plans that have an effect on this effort such as the downtown plan, the plan for the South Beach Rincon Point and the Fisherman's Wharf Plan. They were also treated to a very good presentation of the architectural historic resources by Kate Nichol, which was extremely helpful. Staff was always ready to assist. The overall effect and outcome in the end, when it happens, will be an enormous benefit to the City and particularly to the Port of San Francisco.

Mr. Hodapp indicated that the design and access element is an element of the WLUP. The WLUP addresses uses along the waterfront and the Design and Access Plan identifies the physical form. It also picks out open spaces and views along the Embarcadero, shows which ones exist, and how the new ones will be developed. It also looks at historic resources and identifies the existing historic resources and plans for protection. The committee looked at the qualities that give San Francisco its very unique urban waterfront identity and strengthened those types of factors and weaved it into the design criteria. The following three goals were carried throughout the policies:

(1) Reunite the City with the waterfront, which is an overarching goal of the WLUP.
(2) Create a continuously accessible waterfront from Aquatic Park to Pier 70.
(3) Recognize the unique identity of the waterfront districts.

This plan covers design and access criteria for Fisherman's Wharf through Pier 70. The criteria in the design and access plan looks at preserving the character of the

neighborhoods where necessary and strengthening it where necessary.

The Port's public access and open space plan reflects four primary policies: (1) a continuous public access and open space program that encourages people to explore the entire waterfront; (2) a sequence of significant open spaces occurring at frequent walkable intervals; (3) a variety of public access and open spaces to experience the waterfront's many activities and (4) public access and open spaces which provide connections between the City and the Bay.

To ensure maximum public enjoyment, new public access and open spaces should also meet qualitative criteria that address placement of the open space within a project, microclimate conditions, area identity, site improvements, and other qualities.

The following three view policies were developed: (1) view sites - establish new views at specific points or areas that afford exceptional view of the Bay and the waterfront; (2) street views - streets connecting to the waterfront should have views of the Bay, historic structures, or architecture that provides a waterfront identity; (3) view intervals - provides views of the Bay and maritime activities at frequent intervals along the Embarcadero Promenade.

Several historic preservation policies were established. The general policies listed in the plan were: (1) to formally recognize buildings that may be applicable to the National Register of Historic Places; (2) to preserve and adaptively reuse the most significant historic resources, provided by the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, which is the highest recognized standards used in the country. Piers 9, 15, 17, 19, 23, 29 are also protected in the second policy where the Port commits to retaining and reusing those piers. They also include language to further evaluate the way in which they will be preserved to ensure that the character and the defining elements remain and that they are adaptable to the new uses. They ended up with a commitment to preserve all the historic bulkhead buildings along the waterfront.

The back half of the plan looks at criteria for how Port property could be developed and tries to identify the most significant architectural criteria that need to be taken into account. One additional concept rings true, i.e., every development on the land side of the Embarcadero should take on the character of its adjacent neighborhood, so we have the ability to identify it as a waterfront structure.

Anne Cook stated that in the coming weeks and months, there will be many public meetings and hearings to discuss the Waterfront Plan and Design & Access Element. The upcoming meetings are:

- May 15 - SPUR Waterfront Committee Meeting from 4-6 p.m.
- May 22 - Planning Commission briefing by staff and Technical Advisory Committee on Design & Access Element and Project Schedule
- May 28 - SPUR will be hosting a brown bag presentation at 12:30 p.m.
- June 5 - Planning Commission public hearing to receive comments on Design & Access Element (tentative schedule)
- June 10 - Port Commission public hearing to receive comments on Design & Access Element (tentative schedule)
- June 24 - Port Commission public meeting to consider final adoption of Waterfront Land Use Plan and Design & Access Element (tentative schedule)

Staff also intends to schedule meetings with other interested community groups. She will be setting a meeting at Fisherman's Wharf for Port tenants and the Fisherman's Wharf Association. Dan Hodapp is also scheduling a meeting with AIA. She clarified that the SPUR Waterfront Committee meeting will be held on May 15 instead of May 22, as was previously noticed and the Planning Commission hearing has been moved to May 22. She suggested that the committee pick up a revised copy of the schedule.

Commissioner Hardeman thanked Diane Oshima, Dan Hodapp and Anne Cook, Eva Liebermann and Toby Levine for their comments/presentation and all their hard work.

4. NEW BUSINESS/PUBLIC COMMENT

Meg Reilly, representing the Dolphin Swimming and Boating Club and Friends of Aquatic Park, indicated that a copy of a memorandum regarding the Draft Waterfront Design and Access Element was provided to the Commission. They applaud the efforts of Port staff, the Waterfront Plan Advisory Board, the Technical Advisory Committee and others who provided guidance for the Waterfront Urban Design and Public Access Element. However, there are two critical omissions from the Design and Access Element: (1) natural resource protection and (2) water contact recreation as a waterfront recreational use. She asked the Commission and staff to institutionalize the answer to the following questions and have them incorporated into the WLUP and Design and Access Element: (1) Is it Port policy to recognize the bay as a natural resource and to place high priority in protecting bay water quality? (2) Along the Port's 7-mile waterfront, will the design and operating considerations include water quality protected features to address water quality impact on water-contact recreation, particularly in Aquatic Park?

Redmond Kernan indicated that he was involved on Prop H, which gave rise to this

planning process. He complimented staff for their hard work. He admired the tenacity and persistence of everyone involved. However, this does not excite the water enough since the ships are no longer there. He suggested putting out an RFP for water-related activities. There should be some activities in the water to stimulate people's interest and give access to the water through that interest. He suggested making this process user friendly.

Ernestine Weiss suggested eliminating the square blocks around Pier 7 in order for people to have a peaceful enjoyment of the waterfront. She suggested relocating the skateboarders, bicyclists some place else and hopes that in the final design, this problem will be resolved.

Jeffrey Leibovitz indicated that we are one of the few neighborhoods in San Francisco that does have a view of maritime activity, i.e., the view down Second Street looking southwardly, view of Pier 48 and Pier 50. There is constant change of scenery. That part of San Francisco is a historic warehouse district and hopes that the Commission and staff keep this in mind when development along that portion of the waterfront is contemplated.

Joe Boss commented on the South Beach Pier 40 element of the design. He hopes that the Port, BCDC, Redevelopment Agency and the Giants can focus on this part of the plan and moves forward and get things done in a quick fashion.

Peter Moylan asked if anyone has looked at the water quality issue and whether it is compatible for a heavy maritime usage of any kind and water quality for swimmers. He asked how the Port is going to address this issue.

Ms. Oshima responded that discussion of this issue did come up on a number of occasions. At the time, it was in the context of some development standards that are in the WLUP regarding the water quality regulation standards that should be upheld to improve or maintain water quality. There had been a debate going on at the time as to whether there should be standards that essentially reinforce the existing water quality regulations that are carried out by a myriad of local, state and federal agencies vs. coming up with new language that would tend to infer that there should be different set of standards that the Port should be operating its facilities above and beyond those existing water quality standards. At the time that the advisory board concluded, the Port Commission was still be in support by virtue of the fact that they passed on the WLUP that those existing water quality standards imposed by the Environmental Protection Agency (EPA), Regional Water Quality Control Board (RWQCB) and the Health Dept. would be the guiding factor for maintaining or constructing new facilities in the water. Since the Advisory Board proceedings, an advisory group has been set up among the Port's Environmental Management staff, Dolphin Club, South End Rowing Club to

identify what measures should be in place to ensure that the water quality issues are specifically addressed in the aquatic park area.

Anne Cook stated that when the actual approval processing for the specific projects is done, an environmental review will also be done. The WLUP EIR is a general program and deals with the general types of land uses discussed in the plan. Each project that comes before the Port will have its own environmental review. There will be opportunities then to study the impacts of those projects.

Commissioner Hardeman acknowledged the other members of the board who came in after the introductions: Dick Millett, Paul Sedway, Arthur Bruzzone.

Mr. Millett, from Potrero Hill, indicated that Ms. Reilly made some good comments. He understands that a public boat launch has been designed, financed and approved. It is his further understanding that the project has been road blocked and inquired about the status of the project. Mr. Paul Osmundson replied that the Pier 52 boat launch project has been in design and has been funded. However, the design has been recently revised to bring it within the amount of funding available. An advisory group has been set up to speed up the project. When the Draft EIR for the Giants ballpark came out, an issue was raised with respect to the impacts of traffic and circulation aspect at the public boat launch area and staff will address these issues at tomorrow's Commission meeting. The completion of the design of the boat launch project was delayed until the traffic impacts and circulation questions were satisfactorily addressed. Another public boat ramp is being planned in the Candlestick Point recreation area.

Julie Viera stated that the boat ramp will be built by DPW on Islais Creek. It is going to cost $285,000. It will be handicap accessible and it will be designed for canoes and kayak users. A 700 ft. promenade, which is going to have a public access and a mini museum, will also be built.

Bob Tufts thanked staff for all their work. In setting the schedule of hearings, he thought it was a good idea to coordinate some of the meetings with BCDC and bring them in on a joint basis. He mentioned that the joint BCDC and Port Commission meeting held recently was successful. Continuing that kind of joint meeting and coordination between the two agencies is a good idea. He suggested perhaps bringing in the Planning Commission in the meeting and ensuring that their comments are brought into play in connection with the final approved products.

Having been at the Budget hearing before the Port Commission, Bob Tibbits inquired whether the Executive Director has any plans to add staff now that we are ready to move forward. Mr. Osmundson responded that the Port's proposed budget for next fiscal year has the same number of staff as this year. He will,

however, look at reallocating its existing staff to perform the implementation aspect of some of the projects. He is confident that with the outstanding staff working on the development RFP, the implementation process will be handled as well. In terms of an implementation plan, when staff brings the plan to the Port Commission for adoption, specific recommendations on which projects to pursue will be included.

Jane Morrison indicated that she's pleased to see that open space is featured in the plan and hopes that we achieve maximum success. She thinks that the Port should give more attention to the number one priority, maintaining maritime and water-related uses. She agreed with the Mr. Kernan that the Port should do everything it can to have more water-related uses. She was also disturbed by the interim uses provisions that might keep the Port from acting quickly to accept maritime clients. She inquired if the Port has any plans of preserving the China Basin Channel and the national wildlife. Ms. Oshima responded that page 106 of the Design and Access Element deals with the portion of the south side channel, an area which will be kept an open space which would allow for the natural resources to be enhanced and the protection for the habitat area.

Toby Levine added that there is a short section on natural areas and new open water on page 30. One could debate whether the Mission Creek is a natural area. It is certainly an area where mammals and birds do forage for food and in some cases, nesting activities. Following up on Jane's comments, she believes that it is worthwhile to have another area for foraging and nesting besides Islais Creek and Pier 98.

Jane Morrison followed up on one of the suggestions on maritime and asked for more details about the plans around the southern waterfront. Anne Cook stated that you cannot look at the urban design and access element alone. The important thing to remember is this has to do with the design criteria, public access and open space and historic resources and views. The land uses are covered in the WLUP. The design and access element is an element of the land use plan. With regards to the maritime uses, you have to go back to the land use plan to ensure that the uses you want designed are allowed by the WLUP and meet this criteria.

Commissioner Hardeman indicated that Mayor Brown, in his initial address to the Commission, was emphatic that if we are to error we are to error on the side of maritime. He wants the Commission to do everything in its power to attract maritime to the Port.

Nan Roth commented that she was upset that the historic resources data base did not include the fish alley area at Fisherman's Wharf. She met with Kate Nichol and Vincent Marsh and Mr. Marsh found this area of great interest. Despite her constant comments and urging, this important area is still overlooked.

She also indicated that the section dealing with Seawall Lots 303 and 302 is not accurate. It describes it as an area with restaurants, shops and warehouses. It does not mention the fishing industry oriented activities and would like to see this corrected.

She observed that there are repetitious architectural guidelines in the plan. The area down Hyde Street and the area opposite the triangle are very different in character and would like to see this spelled out more specifically in the architectural guidelines. She emphasized that those few blocks close to the cannery and the Hyde street pier represent what they call the "old work."

She stated that the document indicates that the service access provisions (garbage cans) for the fish alley area should be made from the interior alleys or streets. She found this disturbing and suggested that attention should be given in the document how this is handled and where these things are stored and it is screened from public eyes. She suggested that during the permit process, contractors/owners have to spell how the garbage will be handled and it must be done in such a way that it is acceptable to everybody.

Anne Cook stated that Nan Roth will be pleased with the May 7th version of the plan. After their site visit to the fish alley, provisions were made to the document for SWLs 303 and 302. A description about historic fish uses in the interior block of the fish alley was added. A particular design criteria was also added to inventory those buildings in the area and encourage efforts to retain them for fishing industry use. A language concerning the use of screens around the trash facility was also incorporated into the plan.

Nan Roth further commented that consultants were retained and research was done regarding a garage in the triangle Fisherman's Wharf lot. During their Waterfront Advisory Board process the garage was largely shunned but the Port had a change of heart and supported the garage. However, it is somewhat of a reduced form. She is concerned that the Port's version is smaller and financing will be structured in a different way than the Fisherman's Wharf Citizens Advisory Committee had envisioned. The CAC was assisted by the consultants for the design as well as the financing of the garage. She would like to see these efforts brought together. She was appreciative of what the Port has done so far. She hopes that the Port takes another opportunity to consider the original plan.

The document lacks a language that would give protection to Piers 43 and 43-½. She hopes that someday the Franciscan Restaurant could relocate into one of those buildings on Jefferson to allow for complete open access to the water.

She was concerned about the proposal made for Pier 30/32. It incorporated a

bridge across the Embarcadero and a large sphere and another sculpture way above the height limit of the area. The waterfront should not become everybody's choice for a place for a monument. We should have some control and someway to deal with it when it comes up. The Port is negligent if it does not include a language in the design plan to cover this topic.

Mr. Art Bruzzone inquired about the clause on page 7 of the document which states . . . amendments will be necessary to Port, Planning Department and/or BCDC documents to ensure such consistency. He was curious how this will be done, when will it be done and when will an RFP be issued.

Ms. Oshima replied that the notion of the joint design review process recommended by the advisory board was embraced by every single Commission involved (BCDC, Port & Planning). Everyone understands the need for a coordinated review process. We will be proposing how that joint design review process will take place in context of proposed changes to the City Planning Code. We are proposing that there would be an amendment allowed for the joint review process to be applied to waterfront projects of certain types as specified in the code amendments. The joint review process is intended to implement the design policies in the documents. We are working very hard to incorporate general plan-based design policies as well as those design principles that are important to BCDC. Mr. Bruzzone asked when the process will be completed. Ms. Oshima replied that the proposed schedule is still somewhat vague but staff is planning to go before the Planning Commission as early as July for public hearings on the amendments to the general plan and planning codes and presently working with BCDC to get amendments together for this special area plan for the San Francisco waterfront, which would address that issue as well as many items on the draft concept agreement. For BCDC approval process, over the course of the summer and into the fall, we will be continuing the implementation of these regulatory changes to bring consistency amongst all these agencies.

Mr. Bruzzone inquired if the Port's policy is not to issue RFP unless there is consistency among the three agencies. Ms. Oshima replied that we don't have any specified policy on this issue. The seawall lot properties on the City side are not subject to BCDC review but a coordinated planning process would be undertaken. Staff does not have a time line for developing RFPs for projects on the waterside of the Embarcadero but rather for the ferry building restoration project, which was exempt from Prop H. Although the details for the joint design review process have not been set up nor do we have the project review process set up, we have put into play the project review implementation process that is in the draft WLUP into the ferry Building project.

Eva Liebermann, in response to Nan Roth's comments, indicated that Planning

Department staff has carefully read and analyzed the latest May 7 draft. They, in turn, have drafted a staff report wherein they will point out that this plan differs from the general plan. The issues that Nan Roth mentioned were included.

Toby Levine expressed one last concern, i.e., Seawall 337, which is the large property in front of Pier 48 and 50. She stated that the Port should be very aware and analyze this area very carefully because the Port may wind up having parking for 5,000 cars for the next 50 years.

Commissioner McCarthy thanked everyone for their diligence and hard work. She noted that it is important to remember that the plan is to provide us with guidelines. She thinks that everyone (including commissioners and members of the advisory board) should be continuously involved in this process. She was somewhat surprise that there has been very little public input in recent months concerning some important issues. She reminded the group and the public to continue to be vigilant especially during RFP time and when developments are actually proposed. She looks forward to having them testify.

Jane Morrison inquired about the open space that might be planned around the Terry Francois Blvd. and the southern waterfront. Ms. Oshima replied that on page 109, Seawall Lot 337 is the site that was included within the previously approved Mission Bay Plan. The Catellus revised proposal for Mission Bay has excluded this site from the Mission Bay Plan. While we were going through our waterfront planning process, we presumed the uses that were approved in the Mission Bay development agreement. It was designated for long-term open space for that site. Now that Catellus has taken it out of their project area, the Port is in a transition process of re-evaluating that site. This is a huge waterfront area and changes are constantly happening. When the TAC reviewed this site and its proceedings, it saw that it had a great potential in terms of open spaces. For that purpose we have identified TAC's recommendation on page 109 for open space which could be incorporated into whatever its ultimate long-term use will be. As the Port continues to evaluate this site, which will require some monitoring as to the status of the revised Mission Bay Plan, we would to like ensure that TAC recommendation is documented, included and considered along other uses.

Bob Tibbits inquired about the commencement of an active study for Piers 15 and 29. Diane Oshima replied that there is no specific time line as of yet but this will be discussed further. From the Port's perspective, the following needs to be addressed with respect to the Piers 15 and 29 areas: (1) look at the needs of maritime operators occupying those facilities and how the Port would ensure that the needs of those operators are going to be accommodated. This is the lynchpin in figuring out when the planning process could take place. (2) look at historic preservation policies, particularly as it relates to pier sheds. The Port is

committing to carrying out further research development information that it currently does not have to be able to figure out which of these piers or pier sheds would be recommended for historic preservation. It is an amalgam of community input and technical & planning information that needs to be done together to determine the process.

Commissioner Hardeman indicated that Anne Cook is passing out additional documents provided by Carl Maletic.

Jane Morrison commented that the voters approved the development of Pier 52 long before the Giants were on the ballot and she thinks that it should proceed and the Giants should adapt to it.

Peter Moylan, on behalf of their committee, welcomed Douglas Wong. He stated that the press has been writing a lot of stories about new and different efforts to attract the maritime industry back to the Port of San Francisco, yet what he reads in the detail is very similar to all the predecessors' ideas. He wondered if the Port is now doing something substantially different from all the predecessors or has something changed in the environment.

Mr. Wong reiterated Commissioner Hardeman's comments that when the Mayor first came aboard, his mandate was to bring maritime back to San Francisco. He noted that the Port is doing things that are much more creative than what his predecessors has done. There are things that he is not at liberty to discuss but indicated that staff is in discussions with major shipping lines. The trip to the Far East was very successful and he hopes to report something positive very soon.

Ernestine Weiss asked if the members of the advisory board have considered the Third Street Rail and whether it will have any impact to the waterfront. Paul Osmundson replied that third street right rail project is under environmental review process. The Port has been involved in the early planning stage of the project. However, it does not have any specific relationship to the design and access plan. The Port fully supports the extension of the light rail down at Third Street. Port staff will be working very closely with MUNI and all the other citizens group (Hunters Point, Bayview and the entire range of entities involved in the project). Port staff is very involved in the implementation of the Embarcadero revitalization.

Jane Morrison indicated that the MUNI Third Street Rail will bring more people to the waterfront.

Douglas Wong thanked everyone for being patient in the last six years and for working very hard on this document. When he was a Port Commissioner, he remembered that this was going to be a six-month process, but it turned out to be

six years. He acknowledged all the hard work done by not only Port staff but the advisory board and Bob Tufts. He looks forward to the adoption of the plan on June 24.

Commissioner Hardeman indicated that in his own real life he always hire the very best people, pays them good money and listens to them. He thinks that this committee has worked very hard. He is amazed how this committee has come a long way and was able to compromise. After six years, he commended them all for sticking it out and a look forward to the Commission voting on this next month. He then thanked everyone for their participation. He acknowledged the work put forth by Diane Oshima, Anne Cook and Dan Hoddapp.

5. NEW BUSINESS/PUBLIC COMMENT:

Jeffrey Leibovitz commented that at last week's meeting, the Port Commission committed $12 million to the San Francisco Giants for relocation and demolition costs and an additional $5.2 million in interest. Last January or February, the Port committed another $1.2 million annually to either the demolition of buildings or the toxic clean up for the relocation of Port tenants. There are 33 small businesses that currently occupy and pay rent in the dilapidated dump. The Redevelopment Agency is asking for an additional $9 million from CalBoating at this time and they will be kicking in an additional $9 million for underground garage that is to be built at the South Beach site. There is also an additional $15 million in tax increment financing, which adds up to $51.4 million in taxpayers subsidies to the San Francisco Giants. Seven MUNI buses, sidewalk improvement, street improvement, police and fire, parking control officers, and a new sewer, etc. were all called out for in the EIR. Larry Baer, Vice President of the San Francisco Giants, claimed that $1.2 million will be paid back to the Port in annual rents. These costs are going to be exorbitant and it will take 40 or 50 years before the City ever sees a dime from the San Francisco Giants.

Jennifer Clary, San Francisco Tomorrow, thinks that the public access element is a pretty good document. She hopes that there will be a little revision of the Mission Bay Plan so that the general concepts of the Mission Bay Plan will reflect the importance and uniqueness of Mission Creek Channel. As it is currently written, it talks about either side of the channel but the channel is the center of the whole development. It is going to be a major recreational and open space area and it should be reflected specifically in the opening comments.

Meg Reilly indicated that water quality can be compatible with maritime uses as long as the Port holds the position that someone will enforce the water quality laws. The Port is the manager of the 7-mile waterfront but it is someone's else job to enforce water quality. As long as the Port holds that position, we have a problem.

They are asking the Port, to adopt as policy, to recognize the bay as a natural resource and to place high priority of protecting the bay water quality. Adopt it as an overarching policy so we can implement it on a case-by-case, project-by-project basis. As long as that policy does not exist, then we can't have compatibility between water quality and anything that the Port does on the waterfront. The Commission neglected to adopt that policy. The second policy they ask for is that design and operation include water quality protection features to take into account use of the bay for water contact recreation.

The meeting was adjourned at 6:30 p.m.

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REGULAR MEETING
4:00 P.M., MAY 13, 1997
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AGENDA

1. **ROLL CALL**

2. **APPROVAL OF MINUTES** - April 22, 1997 Meeting

3. **EXECUTIVE**

   A. Executive Director's Report

4. **MARITIME**

   A. Report on Port of San Francisco's 1997 Cruise Season and Projections for future business growth. (Information Only)

5. **REAL ESTATE AND ASSET MANAGEMENT**

6. **FACILITIES & OPERATIONS**

   A. Authorization to award the Professional Services Contract for the "Hyde Street Harbor Waterside Facility" to Concept Marine Associates, Inc. (Resolution No. 97-39)

   B. Approval of First Amendment, authorizing revision of the required and additional services under Professional Services Contract No. SA 39760016, "New Port Maintenance Facility," with Kendall Young Associates/Beverly Prior Architects, a Joint Venture. (Resolution No. 97-36)

7. **PLANNING & DEVELOPMENT**

   A. Presentation on the traffic and circulation aspects of the Pier 52 boat launch project and Terry Francois Boulevard. (Information Only)

8. **FINANCE AND ADMINISTRATION**

9. **CONSENT CALENDAR**

10. NEW BUSINESS / PUBLIC COMMENT

11. EXECUTIVE SESSION

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Douglas F. Wong, Executive Director
*San Francisco Giants Representative: Larry Baer, Executive Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both
An executive session has been calendared to discuss real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark.

This is specifically authorized under California Government Code Section 54956.8.

B. CONFERENCE WITH LEGAL COUNSEL REGARDING ANTICIPATED AND EXISTING LITIGATION MATTERS:

1) Initiation of Litigation pursuant to subdivision (c) of California Government Code Section 54956.9 (1 case)

(a) Red and White Fleet, Inc. (formerly Harbor Carriers, Inc., a subsidiary of Crowley Corporation) operating at Pier 41.

2) Discuss significant exposure to litigation pursuant to subdivision (b) of California Government Code Section 54956.9 (1 case).

C. Vote in open session on whether to disclose Executive Session discussions (S.F. Admin. Code Sec. 67.14)

12. ADJOURNMENT

Public comment is permitted on any matter within Port jurisdiction, and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. Please fill out a speaker card and hand it to the Commission Secretary. If you have any questions regarding the agenda, please contact the Commission Secretary at 274-0406.

PORT OF SAN FRANCISCO

MEMORANDUM

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Writer

May 13, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie Lee
Hon. James Herman

FROM: Doug F. Wong
Executive Director

SUBJECT: Authorization to award the Professional Services Contract for the "Hyde Street Harbor Waterside Facility" to Concept Marine Associates, Inc.

DIRECTOR'S RECOMMENDATION: AUTHORIZE STAFF TO AWARD THE PROFESSIONAL SERVICES CONTRACT FOR THE "HYDE STREET HARBOR WATERSIDE FACILITY" TO CONCEPT MARINE SERVICES, INC.

On November 12, 1996, Resolution No. 96-120, the Port Commission authorized Port staff to issue a Request For Proposals ("RFP") for Architectural/Engineering ("A/E") services for the design of the $1.4 million Hyde Street Harbor Waterside Facility. The project is funded by a loan from the State of California's Department of Boating and Waterways. The project A/E services include programming, design development, cost estimating, and construction and bid document development for the following items: disability accessible gangway, concrete walkway floats, concrete support floats for sixty (60) fishing berths, dredging, floating debris barrier, utilities, including electrical and water services, and bilge and sewage pumpout services. The project scope also includes construction support services during the construction phase.

On January 24, 1997, the Port issued the project RFP. On February 28, 1997, the Port received proposals from five (5) consultant teams. On March 18, 1997, a Port selection panel interviewed and evaluated three (3) teams. Concept Marine Associates ("CMA") received the highest score from the selection panel. The Human Rights Commission confirmed that CMA is responsive to the requirements of the San Francisco Administrative Code Section 12D.

Subsequently, the Port met with CMA to negotiate the fee. The Port and CMA agreed to not-to-exceed fee of $240,300 to provide the required A/E services as outlined above.

Prepared by: Cliff Jarrard, Chief Harbor Engineer

THIS PRINT COVERS CALENDAR ITEM NO. 6A

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-39

WHEREAS, on November 12, 1996, Resolution No. 96-120, the Port Commission authorized staff to issue an RFP for the design of the Hyde Street Harbor Waterside Facility; and

WHEREAS, on February 28, 1997, the Port received proposals for this professional services work; and

WHEREAS, a Port selection panel reviewed all proposals and interviewed three proposers to select the best qualified consultant team; and

WHEREAS, the selection panel selected the team of Concept Marine Associates, Inc.; and

WHEREAS, the contract will provide for services that include programming, design development, bid and construction document preparation and construction management support; and

WHEREAS, the Human Rights Commission has confirmed that this firm is responsive in accordance with Section 12D of the San Francisco Administrative Code incorporated into the RFP; now, therefore, be it

RESOLVED, that the San Francisco Port Commission hereby approves the authorization to award the subject professional services contract for the "Hyde Street Harbor Waterside Facility," to Concept Marine Associates, Inc., at a cost not-to-exceed $240,300.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 13, 1997.

_____
Secretary

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PORT OF SAN FRANCISCO

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MEMORANDUM

May 7, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie G. Lee
Hon. James Herman

FROM: Douglas F. Wong
Executive Director

SUBJECT: First Amendment to the Professional Services Contract for "New Port Maintenance Facility"

DIRECTOR'S RECOMMENDATION: APPROVAL OF FIRST AMENDMENT, AUTHORIZING REVISION OF THE REQUIRED AND ADDITIONAL SERVICES UNDER PROFESSIONAL SERVICES CONTRACT NO. SA39760016, "NEW PORT MAINTENANCE FACILITY," WITH KENDALL YOUNG ASSOCIATES/BEVERLY PRIOR ARCHITECTS ("KYA/BPA"), A JOINT VENTURE

The Commission previously awarded a contract to KYA/BPA for the design of the New Maintenance Facility ("NMF") at Pier 48. Because the NMF will be located at Pier 50 instead of Pier 48, it is necessary to amend KYA/BPA's scope of services. Although much of KYA/BPA's work to date in designing shops and storage facilities will be used for the Pier 50 facility design, the change in location of the NMF does necessitate two changes in the scope of work.

KYA/BPA's contract will be amended to redirect their original design services related to the NMF to Pier 50 instead of Pier 48. There is no cost impact for this change since the remaining contract balance of $235,118 will be used to fund this work. This work includes shop design and layout, mechanical and electrical design, construction documents preparation, and construction support services.

KYA/BPA's contract will also be amended to include limited additional services for the design of interior repairs to the fire damaged areas at Pier 48. The cost of the additional services is $72,644. The interior repairs will include new firewalls, new coiling fire doors, a sprinkler system, light fixtures, and a fire alarm system. KYA/BPA will prepare the necessary construction and bid documents for the Port to solicit bids to accomplish this work. It is anticipated that these additional services will be paid for by the fire insurance company. Accordingly, KYA/BPA will be authorized to proceed with these services only upon confirmation of fire insurance company coverage.

Prepared by: Cliff Jarrard, Chief Harbor Engineer

THIS PRINT COVERS CALENDAR ITEM NO. 6B

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-36

WHEREAS, the Commission previously awarded a contract to Kendall Young Associates/Beverly Prior Architects ("KYA/BPA"), A Joint Venture, for the design of the New Maintenance Facility ("NMF") at Pier 48; and

WHEREAS, the NMF will be located at Pier 50 instead of Pier 48; and

WHEREAS, although much of KYA/BPA's work to date in designing shops and storage facilities will be used for the Pier 50 facility design, the change in location of the NMF does necessitate two changes in the scope of work; and KYA/BPA's contract will be amended to redirect their original services related to the NMF to Pier 50 instead of Pier 48; and there is no cost impact for this change since the remaining contract balance of $235,118 will be used to fund this work; and

WHEREAS, this work includes shop design and layout, mechanical and electrical design, construction documents preparation, and construction support services; and

WHEREAS, KYA/BPA's contract will also be amended to include limited additional services for the design of interior repairs to the fire damaged areas at Pier 48; and

WHEREAS, the cost of the additional services is $72,644; and

WHEREAS, the interior repairs will include new firewalls, new coiling fire doors, a sprinkler system, light fixtures, and a fire alarm system; and KYA/BPA will prepare the necessary construction and bid documents for the Port to solicit bids to accomplish this work; and it is anticipated that these additional design services will be paid for by the fire insurance company; and accordingly, KYA/BPA will be authorized to proceed with these services only upon confirmation of fire insurance company coverage; therefore be it

RESOLVED, the San Francisco Port Commission hereby approves the First Amendment to the KYA/BPA Professional Services Contract No. 39760016, "New Maintenance Facility," for redirecting NMF services to Pier 50 instead of Pier 48 and for additional services for $72,644.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 13, 1997.

_____
Secretary

CITY AND COUNTY OF SAN FRANCISCO
PORT COMMISSION

MINUTES OF THE REGULAR MEETING
MAY 13, 1997

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1. ROLL CALL

The meeting was called to order by Commission President Michael Hardeman at 4:09 p.m. The following Commissioners were present: Michael Hardeman, Denise McCarthy, Frankie Lee and James Herman.

2. APPROVAL OF MINUTES - April 22, 1997 Meeting

ACTION: Commissioner McCarthy moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the minutes of the meeting were adopted.

3. EXECUTIVE

A. Executive Director's Report:

1) The Black and White Ball was held on Saturday, May 10, 1997 from 9:00 p.m. to 2:00 a.m. and comprised music and dancing in nine separate locations with approximately fifteen stages and approximately fifty musical groups. The venues included the Hyatt Regency, One Market Restaurant, Embarcadero Four, Justin Herman Plaza, and the Port's parking lots from Mission to Broadway in the Embarcadero median. In addition, the Ball used Pier 29 for staging of the La Compagnie Malabar (circus performers), as well as a light installation on the Ferry Tower that projected the Ball's logo on the Ferry Tower. Approximately 12,000 people attended. It's the most successful Symphony fund raiser in the United States. The Port received a $10,000 fee toward cost recovery. Port staff coordinated the relocation of 300 parking tenants to Port parking meters for one week, issued a License to Use Property, Port building permit and coordinated several meetings over a three-month period.

2) The 14th Annual Port Whaleboat Race will be held on Wednesday, May 13 at the Port promenade from 10:30 a.m. to 1:00 p.m. The Port will compete in all divisions - men's, women's and co-ed. He invited the Commission to watch the whaleboat race.

3) Sharon Rogers who worked for the Department of City Planning but worked closely with the Port on Port projects for many years, died on April 27 from leukemia-related complications. Sharon was respected and well liked by her peers at City Planning as well as by Port staff with whom she worked most

closely. He requested that the Port Commission adjourn today's meeting in Sharon Rogers' honor. He noted that he will send a personal note to Sharon's family expressing the Port's gratitude for her contributions and extend our sympathy for their loss.

4. MARITIME

A. Report on Port of San Francisco's 1997 Cruise Season and Projections for future business growth. (Information Only)

Ms. Veronica Sanchez, Manager of Governmental Affairs, presented this item in conjunction with the Maritime Division because the short- and long-term cruise marketing efforts have been a joint project by both divisions. The cruise season for the Port is here. Next Monday, the Crystal Symphony will sail passed the Ferry Building en route to San Francisco Drydock where she will be worked on for ten days. This will produce six hundred jobs for blue collar workers. This is a tremendous success not only for our yard but also for the tourism industry in San Francisco because the Crystal Symphony will be home ported in San Francisco for six cruises this summer.

She introduced Gerry Roybal, Cruise Marketing Representative. She indicated that it is important that the Commission sees first hand the work that Mr. Roybal is doing to build an economic model of what the economic impact of our industry is to the City. This is the first time that this model has been produced. Mr. Roybal's work is so exceptional that the California Tourism Commission actually used this model in their report to analyze the cruising industry in California and the presentation compiled here has also been presented in many other California cities and the East Coast.

Mr. Roybal indicated that in 1996, the Port saw an exceptional growth over the prior years. In 1996, the Port experienced 47 visits by passenger ships, bringing almost 53,000 visitors to San Francisco. Tourism expenditures (such as ground operation, bus tours, taxis, limos, hotels, restaurants, T-shirts, etc.) last year generated approximately $7 million. Shoreside labor generated $1.5 million. Vessel Services generated approximately $8.1 million. Last year, three ships entered the San Francisco Drydock, generating a total of $1.5 million and sixteen full time employment were created.

1997 will be a banner year. This is the best year that the Port will experience since 1985. 53 visits by passenger cruise ships are expected and will bring more than 90,000 visitors, an 81% increase in revenue to the Port. The Port will realize an overall 42% increase in the impact of total dollars that vessels spend and a 67% increase in tourism expenditures. The local impact this year should be in excess of $27 million. More than 13,000 long shore labor hours should be generated this year, which will employ seven people full time, all year round.

Worth noting, however, are the majority of our eggs are in the Alaska basket. 90% of the visitors who call on San Francisco come for the purpose of visiting Alaska.

The Alaska homeport vessels are the impact of our core business. 43% of our visitors are brought by homeport vessels. It is critical to understand that only two lines are generating this level of business. Crystal Cruises will have the greatest economic benefit. Princess Cruises has been dedicated to San Francisco for 28 years now. It is important to point out the significance of our core business because it determines our strategy to develop this industry. There are 38 large cruise ships on order to be built over the next three years. A majority of those will enter the United States market. Every time a larger, newer ship comes in, there will be a dramatic increase in the impact of each individual port call. It no longer will be important to simply monitor the number of calls. It would be significant to understand how many passengers come as a result of those calls.

The passenger cruise industry is going mainstream. In order to help this industry grow, Port staff is looking at business retention and relationship building. To help the Port climb out of its dependency on Alaska, staff's interim strategy is to develop new product and itinerary sales. Staff has designed new ideas for cruises such as a 11-day cruise (known as two-nation vacation) which is a round trip from San Francisco to Mexico that would also allow stops at off ports such as Santa Barbara and Monterey. Staff is also thinking of implementing a discounting scheme for ships that come in over night. The second day would be free or discounted, whereby it would allow ships to come in and give their passengers more time to enjoy the sites and sounds of San Francisco. One of the key stone for Customer and Consumer satisfaction is to continue the focus on infrastructure upgrades and efficiencies. This year, the Port has spent more than $2 million in implementing greater efficiencies in the passenger cruise terminal such as installation of escalators and elevators. The ships are getting bigger, which create operational idiosyncracies that the Port needs to deal with. It is important to have a budget to be able to deal with this so we can continue to be a major cruise port of call.

Ultimately, staff is looking at the long-term strategy which would give the Port explosive growth. This long-term strategy is the waiver of the Passenger Services Act which would allow the Port to open up a whole new market and make more cruise products accessible to the mainstream. This will create a new concept in the United States such as regional cruising. This means that you no longer have to fly to Miami to catch a cruise ship, you can go to your local port and catch your ship there. It would give you the opportunity to take a three or four-day cruise, something that cannot be done unless the law is changed. If this law were to change, the growth numbers would be astronomical. He expressed that the numbers can be accomplished if only seven ships were deployed anywhere from three to nine months in the Pacific. Instead of 53,000 cruise passengers last year, there would be an additional 144,000; almost 200,000 passengers a year can come to San Francisco. The total impact would be an additional $26 million in vessel expenditures and additional $18 million in tourism and creation of more than 36,000 hours of work for longshoremen.

Ms. Sanchez indicated that last year the Commission passed a resolution in support of changing the PSA. In the past year, staff has been working with other ports to prepare a legislation, known as the United States Cruise Tourism Act of 1997. The

legislation will be coauthored by Senator Thurmond of South Carolina and Senator Murkowski of Alaska. The legislation is for job creation and job protection. She reiterated that the legislation protects the Jones Act; it has no threat to the Jones Act. It also protects the existing American operator in Hawaii. It allows them to continue to operate without any competition by any foreign flag vessels. The objective is to create new jobs and not put any American jobs at risk. It protects smaller cruise companies, excursion vessels and ferries. It also protects future American ocean going cruise vessels.

The intent of the legislation is to provide a temporary license to a foreign flag cruise ship to enter the domestic itinerary without having to touch a foreign port. It allows the Secretary of Transportation to grant the permit. The PSA will still remain on the books. It just says basically if a foreign cruise line wants to enter a domestic itinerary it would get a waiver or a temporary license from the Dept. of Transportation to operate where there is no cruise ship operating in a coastal trade like San Francisco to Monterey. It must provide full luxury accommodation. It cannot compete directly with any existing US flag ship. Most importantly, any ocean liner that would go into coastal itinerary would have to have their ship repair work done in the US yard. The legislation is scheduled for introduction and it is our hope to have a hearing on the bill some time in the summer. Mayor Brown has written Senator Feinstein a letter asking for her support on the bill and to have her co-author the legislation.

However, there are union concerns regarding the bill with regards to the Jones Act. Staff will continue to articulate its intent to preserve the Jones Act and to work with co-authors. Other union issues that have been raised will be worked through the process. We look forward to a hearing that would give us an opportunity to express our point of view and the importance of this industry.

Commissioner McCarthy asked for a briefing on the operation of the terminal. Mr. Roybal indicated that our current operator is working on a 30-day month-to-month tenancy. The RFP that was put out two years ago was unresolved. The current operator has new management in the terminal and the enhancements have been noticeable and positive. In fairness to both our cruise customers and to our operator, we owe it to them to work out the current season and the status quo and sit down with them at the end of the year and figure out what preparations and equipment upgrades they are ready to undertake in exchange for long-term agreement. Commissioner McCarthy asked who monitors the operations at the terminal. Mr. Roybal replied that Charlie Mitchell, the Chief Wharfinger, oversees the operations at the terminal. Mr. Roybal's function is one of communicating and connecting with the lines. Commissioner McCarthy indicated that she was on board the Galaxy last week and she was concerned about the equipment that was used. It was difficult for the passengers in wheelchairs as well as elderly people. She raised the issue because she believes that Mr. Roybal has done an admirable job, especially with the whole strategy but the Port has to put a great deal of emphasis on infrastructure if this Act should change. It is important for the Port to continually monitor the facility to ensure that it is adequate to help out the passengers.

Commissioner Herman indicated that he genuinely appreciates Mr. Roybal's unfailing support he has given to all seafarers' union. There is, what he hopes, a momentary dispute with seafaring unions. Unfortunately, the ILWU lighted on the wrong side because of the intensity of the disagreement over the impact and application of the Passenger Services Act (PSA). There is no question, without looking at the PSA objectively, that one will agree that the law is obsolete. It came into being in order to accommodate Canadian ships. Now, Canadian ships seem to have captured most of the work. For the ILWU, the amount of work is significant. It is time to come into the new century. It is ironic that in arguing this legislation one would talk about one or two or seven or eight jobs, a woefully inadequate number considering the plight of the maritime industry.

He noted that their union supports the seafaring unions in almost every respect, except a difference of opinion around the validity of maintaining the PSA. He hopes that the Act is altered so as to give the longshore workforce that amount of work that they are entitled to that other American longshoremen and people employed in transportation have and were complimented by the presence of the activism of Veronica Sanchez, who leaves no stone unturned in raising this question militantly, vigorously and accurately wherever she has an opportunity to visit. He hopes that an effective coalition is formed. He recognizes the serious difficulty that the American seafarers are in and are prepared and committed to doing everything possible to alleviate the difficulties that American seafarers have.

He took note of Commissioner McCarthy's observation where safety leaves much to be desired. There recently was a fire on one of the American passenger ships because it did not live up to code. It is in the shipyard now and it will come out and will live up to code that will be admirable and will be enthusiastically supported. There is no real argument that can be advanced to tie the PSA into the Jones Act. They are irrelevant one to the other. For West Coast longshoremen, the number of jobs is significant. An alteration or change in the PSA was not supported by members of their union, by convention vote, because they were confused around the issue. He made an assurance that when this issue comes up again, they will support legitimate amendments to the PSA. They are appreciative of the unqualified support that was given to all seafarers, longshoremen and their yearning for more employment, for safer employment and for all legislation necessary in order to make the jobs more attractive and to share the jobs more equitably among all seafaring personnel not only for this issue but for all the years that ILWU has been around. Together with the American seafarers, they enthusiastically support the preservation of the Jones Act. They believe that there should be a more rationale look at their position on amendments to the PSA. He hopes that it would come to pass soon and he thanked Mr. Roybal for his help. He also thanked Ms. Veronica Sanchez, who is assigned full time to this project, so as to create jobs and make legitimate changes that will be safe, will encourage more seafaring passenger traffic that will reinstate all the work that at one time had on American passenger ships.

Commissioner Lee thanked Gerry and Veronica for all their hard work. He indicated that it is time to seriously look at a brand new cruise terminal. Staff has spent a lot of

time and money to upgrade the current facility but it is not working sufficiently. Port staff should develop it or put out an RFP if there's interest in developing it.

Mr. Wong commented that during their trade mission to Asia, many different shipping lines were interested in seeing what the possibilities are at the Port. They are closely monitoring what's happening with the PSA. The Mayor is very attuned and very supportive of PSA. If it passes, we would be very attuned to bringing our passenger terminal into real international standards. Much of this depends upon what happens with the PSA. From the development standpoint, if the PSA passes, the response will be very positive. If the result is not positive this year and we have to go out again next year, the response might not be as favorable. Staff will monitor this closely and report back to the Commission.

Commissioner Hardeman echoed Commissioner Herman's statements that there were concerns from the labor union that were addressed. When the Commission voted to approve amendments to the PSA last year, some strings were attached. However, as shown on the graphs today, the areas of concern were addressed and complimented Ms. Sanchez and Mr. Roybal for all their work.

5. REAL ESTATE AND ASSET MANAGEMENT

6. FACILITIES & OPERATIONS

A. Authorization to award the Professional Services Contract for the "Hyde Street Harbor Waterside Facility" to Concept Marine Associates, Inc. (Resolution No. 97-39)

Mr. Alex Lee, Director of Facilities and Operations, indicated that the item before the Commission is to authorize staff to award the Professional Services Contract for the Hyde Street Harbor Waterside Facility to Concept Marine Associates. On November 12, 1996, the Port Commission authorized staff to issue a Request for Proposal for architectural/engineering services for the design of the $1.4 million Hyde Street Waterside Facility. The project is funded by a loan from the California Boating and Waterways. The Project is estimated to cost $1.4 million. The project will include accessible gangways, concrete support floats for sixty fishing berths, floating debris barrier, lighting, utilities and sewer, water and bilge pumpout station. The Port issued an RFP in January and received five proposals in February. The selection panel interviewed three and Concept Marine Associates (CMA) received the highest score. The Port and CMA agreed to a not-to-exceed fee of $240,300 to provide the required A/E services.

Commissioner McCarthy asked for the time line of this project. Mr. Cliff Jarrard, Chief Harbor Engineer, replied that the project is broken up into two phases. The first phase would be 45 days. The consultant, in conjunction with the community, will develop a concept. After approval of the concept and layout, staff will give the consultant authority to move into the second phase, which is approximately a four-month process. Staff hopes to get the consultant on board within three weeks after the

Civil Service approval is sought. Commissioner McCarthy asked if the general layout is based on the old plan. Mr. Jarrard replied that the general layout, at the onset, will be based on the old layout. It will be the starting point so that the consultant will have a general idea. The final layout will depend upon the community's input.

Commissioner Lee inquired about the status of the Fisherman's Wharf lighting project. Mr. Lee replied that staff is working with the architectural firm to locate some of the lighting standards at Fisherman's Wharf area. Placement of the standards will have to be changed at some locations. Once it is finalized, construction will commence.

Ms. Meg Reilly, representing the Dolphin Swimming and Boating Club, indicated that the Port's Fisherman's Wharf Environmental Quality Advisory Committee was not able to participate in designing the original RFP but were able to include some changes, which were incorporated into an addendum, which resulted into a vastly improved RFP. Included were: (1) a credential requirement that the firm selected have water quality credentials; (2) the project was to be highly protective of water quality; (3) identify that an EIR has been done on the project and designate it as a required reading for the selected consultant. They then asked to participate in the selection committee but were denied the opportunity. She indicated that they have not seen the professional services contract; therefore, it is hard to support the contract. She made it clear, however, that the Dolphin Club does not object to the project. They have observed that the project is disintegrating and it has been divided into three or four parts (waterside, landside, the dredge portion). None of the landside amenities (such as showers, plumbing, lights) appeared in the drawings. No one thought about the storage areas for spill containers or designated areas for bilge water and pumpout. The fuel stock was left out of the landside drawing. They did not get any clear answers as to the amount of fill that would removed and added. They don't believe that the project should be divided up. The time and the pace and coordination of the various parts need to happen at the same time.

Mr. Alex Lee stated that the professional services contract with CMA will include both the landside and waterside concept in the design of the utility system (mechanical and electrical system). They do not foresee additional work being contracted to another A/E firm. The rest of the work will be done by Port staff or DPW Engineering.

ACTION: Commissioner McCarthy moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

B. Approval of First Amendment, authorizing revision of the required and additional services under Professional Services Contract No. SA 39760016, "New Port Maintenance Facility," with Kendall Young Associates/Beverly Prior Architects, a Joint Venture. (Resolution No. 97-36) **THIS ITEM WAS PUT OVER TO THE NEXT MEETING**

7. PLANNING & DEVELOPMENT

A. Presentation on the traffic and circulation aspects of the Pier 52 boat launch project and Terry Francois Boulevard. (Information Only)

Mr. Paul Osmundson, Director of Planning and Development, stated that this is an informational presentation on the traffic and circulation aspects of the Pier 52 boat launch project. At the April 22, 1997 Port Commission meeting, he made a presentation regarding the scope of the project, the available funding and a recommendation regarding deferring the construction of the restaurant bait shop and dining deck to a subsequent phase. Several questions were raised by members of the public at that meeting regarding the impacts of the proposed China Basin Ballpark project on traffic and circulation for the Pier 52 boat launch project.

The project involves a double lane boat launch, gangway and floats, providing disabled access, shoreline improvements and public access, landscaping and site improvements and a 20-space trailer boat parking lot. Port staff has conveyed to both the Giants and the Office of Environmental Review the boat club's concerns regarding the impact of the traffic on Terry Francois Boulevard. One of the ballpark EIR's mitigation measures involved striping Terry Francois Boulevard to provide four lanes of traffic. What is not clearly identified is whether how those lanes would be managed. Staff will be working with the Giants, Dept of Parking & Traffic, the boat clubs to determine the management of those lanes.

Mr. Osmundson then showed the Commission a drawing of the roadway alignment between the two boat clubs immediately adjacent to the boat launch. The existing roadway width in this area is a total of 66 feet to provide four travel lanes. In its existing condition, Terry Francois Blvd. can accommodate the required traffic lanes. The drawing showed the proposed geometry of the boat launch along the waterside--four travel lanes in the boat parking lot. The current curb line on the waterside of Terry Francois Blvd and the curb line for the boat launch project is approximately 20 feet. The reason the ramp is designed in that fashion is twofold: (1) to minimize the amount of fill in the bay; and (2) it reduces the cost.

In terms of circulation in and out of the boat launch, Mr. Osmundson indicated that it has been designed to allow for right turns from northbound to Terry Francois Blvd. One of the requirements of the CalBoating grant for the project is to have sufficient room to maneuver and turn around a boat with a trailer completely off street. Staff's design does allow for that to happen and that aspect of the circulation can be accommodated. The second option involves moving the curb line back towards the water in order to provide additional right of way width on Terry Francois Blvd. to provide for bike lanes between Mariposa/Hunters Point Boat Club and the Bayview Club or on the alternate, the additional 8 feet could provide a curb side parking lane that could be used for parking of vehicles or boat with trailers temporarily while they load/unload.

Lastly, he pointed out that some of the concerns expressed were related to access to

the waterfront for the boat clubs on weekends and evenings. Staff has looked at the Terry Francois Blvd, south of the Bayview Boat Club and believed that there is enough roadway width to provide for parking along both the north and south bound lanes. Further, in discussion with members of the boat clubs, renting parking spaces to them will be considered so that they can be ensured access to the waterfront during a ball game so that they can continue to use the facilities.

Commissioner McCarthy stated that there is room for one boat and a trailer to come in, turn around and back in. This process, however, takes a long time and wondered what happens if several people want to do it at the same time in the morning. Mr. Osmundson replied that they would have to wait and queue up on the roadway in order to allow the previous user to get out of the way.

Commissioner Herman wondered if it is possible for a boat that is towing a trailer to get a single berth where they would be able to park reasonably close to the harbor, go out and then take a minimal amount of space temporarily, allowing for more space for trailer access. Mr. Osmundson replied that they could either park in the lot across the street or utilize the option he described wherein the curb side lane adjacent to the boat ramp would be reserved for boat related activity. That location would be available for someone to park a trailer on a short term basis. The location of the parking lot directly across from the boat ramp was intended to make it as conveniently as possible for the boaters' trailers. Commissioner Herman asked how many boats would be accommodated. Mr. Osmundson responded it can accommodate about 20 small boats, but on a very busy day, the area would not be adequate. There will be additional needs beyond what can be accommodated in the area.

Commissioner Lee indicated that at the last meeting the concern was access to the area during a ballgame. He noted that there will be a lot of traffic diverted into Terry Francois Blvd and will be interfering with boating activities. He asked if Option 1 or Option 2 is the solution to mitigate the concern. Mr. Osmundson responded that physically we can accommodate some space to address the concerns. There are other issues that relate to how we manage those traffic lanes and how we manage the curb space along the water.

Commissioner McCarthy inquired if BCDC is the driving force in making the decision. Mr. Osmundson indicated that Carleen Ho, the project manager, has spoken to BCDC staff about relocating the curb line. BCDC does not have any significant concerns about it. He believes that the relocation of the curb line would be a good solution.

Commissioner Hardeman stated that boaters who are not baseball fans could probably work around the schedule so as to alleviate congestion. Mr. Osmundson indicated that we want to do everything we can to provide space and mechanism. He stated that an advisory group was set up to address the boat clubs and the community's concerns They will continue with those efforts. Commissioner Hardeman commended staff for doing an excellent job.

8. FINANCE AND ADMINISTRATION

9. CONSENT CALENDAR

10. NEW BUSINESS / PUBLIC COMMENT

Daniel Cassidy, Director of the Irish Studies Program at New College of California, indicated that it is with some dismay that he comes to address the Commissioners. He was shocked to discover that the Port Commission seems to be cooperating with the British government, which he considers a shameless public relations campaign, a campaign that is covering up war crimes, human rights violations, colonial deprivation that's been ongoing for years. It is a history that continues today, a history that is littered with one human rights violation after another. He asked the Commission to explain to the Irish American community, to the labor community and to all people who are in favor of human rights and democracy, why the Commission is acting as a shield for the British government. He asked why the British banners are located up and down the Embarcadero. He believes that if those signs do not come down in the next week, they will be personally taken down. He asked the Commission for their cooperation.

John Fogarty, Regional Vice President for Human Rights for the Irish American Unity Conference, stated that the purpose of Britain Meets the Bay escapes him. In 1994, he was in England on a fact-finding mission on behalf of their organization and met with their Fair Employment Commission. They came away from the meeting saddened by what they saw. The Commission absolutely does nothing to achieve fair employment. He pointed out that the British government is Europe's most convicted nation in the world court for human rights violation. Consequently, many Irish and Irish Americans do not see the British signs as a fitting symbol on the Embarcadero. The Commission would have been aware of the situation had there been a public comment. He urged the Commission to pay attention to the his and Mr. Cassidy's concerns. Those signs are offensive to the people who live in San Francisco. He hopes that the Commission would do the right thing.

Commissioner Hardeman asked the Executive Director to give a background on the matter. Mr. Wong stated that the banners are not only located along the waterfront but also all around the City. The Department of Public Works approached the Port for a permit. This is a City wide promotional program. Britain by the Bay also has a promotional program with the Port's largest cruise operator, Princess Cruises, and is advertised on the banners. He reiterated that this is a Citywide program that the Department of Public Works asked for a permit and the Port granted permit.

Commissioner Hardeman indicated that the Commission and the Executive Director will take notes of the comments.

Owen Marron, Executive Secretary of the Central Labor Council of Alameda County, gave the Commission a copy of a resolution passed by their council. The resolution was adopted by the 2 million member of the California Labor Federation and the 13 million member AFL/CIO. He echoed Mr. Cassidy's and Mr. Fogarty's comments. He urged the Commission to follow their request. It is very clear that there's a great deal of

injustice done. Justice must be done on behalf of the Irish people who have been exploited by the British. He does not believe that Mr. Wong's response is adequate. He asked the Commission to revoke the permits and have the banners removed. He urged the Commission to remove the banners or, if not, work out a compromise.

Commissioner McCarthy inquired how long will the banners be up. Mr. Roybal replied that the Britain by the Bay's series of events is slated at the end of June. The banners will be taken down before that. The Conference of Mayors banners would be put up in their place sometime the second week of June. Commissioner McCarthy commented that there are an awful lot of banners. Mr. Wong stated that DPW got the permit from the Port and had their contractor put up the banners. Staff will provide the Commission what the time line is and what the permit process was. Commissioner McCarthy pointed out that this issue was never brought to the Commission for approval.

Commissioner Herman stated that the presence of such offensive signs does represent a wrath of all but San Franciscans the history of the Irish struggle, the brutality that was visited and still remains. The Commission should not be tolerant, patient or accommodating to this free expression that is really a fact of a frightful history. He knows that the Executive Director and the Commission will cooperate in whatever way that it can to see to it that the signs are removed and cooperate with those who are engaged in this legitimate effort. He then complimented them for bringing this matter to the Commission's attention.

Peter Gaine stated that the Liverpool dock workers is a situation that has been going on for over a year and a half where over 500 Liverpool dock workers were unceremoniously dumped for honoring a picket line of much smaller group. They realize what is going on in Britain. They are insisting on going back to the old shape-up system, ultimately to break the unions completely. What makes it even more damning is the British government is a part-owner of the Mercy side docks. He wanted to bring this up as another example why we should be outraged with the British signs in our City.

Ms. Meg Reilly suggested some action items: (1) The Commission should take a tour of the Fisherman's Wharf area with the Environmental Water Quality Advisory Committee. (2) Veronica Sanchez or someone as skilled as she is would be put to work to find some money for the Hyde Street Harbor project. The CalBoating loan went into place long ago well before the environmental water needs of this project were recognized. There is money out there, evidenced in her conversations with EPA, CalBoating and Coastal Conservancy. They will not accept an answer that there is no money budgeted for the environmental aspect of this project. (3) The Port should adopt the water quality policy. In addition, once this project is built, the Port might consider putting the management of the entire harbor area out to a contractor. History tells us that the Port has not manage this area well. Perhaps, an outside contractor could manage it better.

She then showed pictures of the water at Fisherman's Wharf area and pictures of the disastrous fish alley area. She provided the Port with copies of EPA's best management practices, both for urban areas and management measures for marinas and recreational boating. They include 14 best management practices but has not gotten anybody to take

ownership of these materials. There are a flotilla of 30 proposed new laws relating to water quality and coastal management which the Port will be subjected to. The Port should be looking for money and needs to get serious on this matter.

Mr. Tom Creedon, Scoma's Restaurant, shared Meg Reilly's concerns. He noted that Ms. Reilly is speaking about things that haven't been addressed. It hurts to find out that funding is available for things that should have been implemented a few years ago such as a bilge pumping station that should have been installed at the fuel docks. He urged the Commission to take a step forward now.

Commissioner McCarthy commented that after the lengthy discussions about the fishing industry and the conditions at Pier 45, the project was completed and as a result a modern facility was constructed. What Ms. Reilly and Mr. Creedon talked about today should be taken to heart. Ms. Sanchez is very good at obtaining grants. If the research is correct, there may be some money for these projects. She realizes how frustrating it is for Ms. Reilly and Mr. Creedon and at the same time, understands staff's point of view. She, however, would like to see forward action on this and would appreciate to get a report on this matter.

Commissioner Hardeman adjourned the public session in Sharon Rogers' honor.

11. **EXECUTIVE SESSION**

At 5:50 p.m., the Commission Secretary announced that the Commission will withdraw to executive session to discuss the following:

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Douglas F. Wong, Executive Director
*San Francisco Giants Representative: Larry Baer, Executive Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both
An executive session has been calendared to discuss real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark.

This is specifically authorized under California Government Code Section 54956.8.

B. CONFERENCE WITH LEGAL COUNSEL REGARDING ANTICIPATED AND EXISTING LITIGATION MATTERS:

1) Initiation of Litigation pursuant to subdivision (c) of California Government Code Section 54956.9 (1 case)

(a) Red and White Fleet, Inc. (formerly Harbor Carriers, Inc., a subsidiary of

Crowley Corporation) operating at Pier 41.

2) Discuss significant exposure to litigation pursuant to subdivision (b) of California Government Code Section 54956.9 (1 case).

C. Vote in open session on whether to disclose Executive Session discussions (S.F. Admin. Code Sec. 67.14)

At 6:33 p.m., Commissioners Hardeman, McCarthy, Lee and Herman returned from executive session and convened in public session.

ACTION: Commissioner McCarthy moved approval to not disclose any information discussed in the executive session; Commissioner Lee seconded the motion. All of the Commissioners were in favor.

The meeting was adjourned at 6:35 p.m.

SAN FRANCISCO
PORT COMMISSION

SPECIAL MEETING
3:00 P.M., MAY 27, 1997 ←←PLEASE NOTE THE TIME OF THE MEETING
FERRY BUILDING, SUITE 3100
SAN FRANCISCO, CALIFORNIA

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AGENDA

1. **ROLL CALL**

2. **NEW BUSINESS/PUBLIC COMMENT**

   Public comment is permitted on any matter within Port jurisdiction, and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. Please fill out a speaker card and hand it to the Commission Secretary. Each speaker is limited to three minutes.

3. **EXECUTIVE SESSION**

   A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

      1) Property: Port property located at Berry Street and Second Street (China Basin).
      Person Negotiating: Port representative: Douglas F. Wong, Executive Director
      *San Francisco Giants Representative: Larry Baer, Executive Vice President

      Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both
      An executive session has been calendared to discuss real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark.

      This is specifically authorized under California Government Code Section 54956.8.

   B. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

      1) Property: Port property located at Pier 80
      Person Negotiating: Port representative: Douglas F. Wong, Executive Director
      *Recycle Central, Inc. Representative: Mike Sangiacomo, President and Don Moriel, Executive Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓ Both
An executive session has been calendared to discuss real property negotiations between the Port and Recycle Central, Inc., regarding the property located at Pier 80.

This is specifically authorized under California Government Code Section 54956.8.

C. CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS:

1) Discuss existing litigation matter pursuant to subdivision (a) of California Government Code Section 54956.9

a. Caputo v. CCSF; San Francisco Superior Court Case No. 979843.

b. Chez Laura Enterprises, Inc., dba Lou's Pier 47 v. CCSF; United States Bankruptcy Court Case No. 97-30111-DM-11

2) Initiation of Litigation pursuant to subdivision (c) of California Government Code Section 54956.9 (1 case)

a. Red and White Fleet, Inc. (formerly Harbor Carriers, Inc., a subsidiary of Crowley Corporation) operating at Pier 41.

3) Discuss significant exposure to litigation pursuant to subdivision (b) of California Government Code Section 54956.9 (1 case).

D. Vote in open session on whether to disclose Executive Session discussions (S.F. Admin. Code Sec. 67.14)

4. ADJOURNMENT

SAN FRANCISCO
PORT COMMISSION

MAY 27, 1997
MINUTES OF THE SPECIAL MEETING

MEMBERS, PORT COMMISSION

HON. MICHAEL HARDEMAN, PRESIDENT
HON. DENISE McCARTHY, VICE PRESIDENT
HON. FRANKIE G. LEE
HON. JAMES HERMAN

DOUGLAS F. WONG, EXECUTIVE DIRECTOR

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CITY & COUNTY OF SAN FRANCISCO
PORT COMMISSION

MINUTES OF THE SPECIAL MEETING
MAY 27, 1997

1. ROLL CALL

The meeting was called to order by Commission President Michael Hardeman at 3:02 p.m. The following Commissioners were present: Michael Hardeman, Denise McCarthy and Frankie Lee. Commissioner James Herman was not present.

2. NEW BUSINESS/PUBLIC COMMENT

3. EXECUTIVE SESSION

At 3:03 p.m., the Commission Secretary announced that the Commission will withdraw to executive session to discuss the following:

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Douglas F. Wong, Executive Director
*San Francisco Giants Representative: Larry Baer, Executive Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both
An executive session has been calendared to discuss real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark.

This is specifically authorized under California Government Code Section 54956.8.

B. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

1) Property: Port property located at Pier 80
Person Negotiating: Port representative: Douglas F. Wong, Executive Director
*Recycle Central, Inc. Representative: Mike Sangiacomo, President and Don Moriel, Executive Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both
An executive session has been calendared to discuss real property negotiations between the Port and Recycle Central, Inc., regarding the property located at Pier 80.

This is specifically authorized under California Government Code Section 54956.8.

C. CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS:

1) Discuss existing litigation matter pursuant to subdivision (a) of California Government Code Section 54956.9

   a. Caputo v. CCSF; San Francisco Superior Court Case No. 979843.

   b. Chez Laura Enterprises, Inc., dba Lou's Pier 47 v. CCSF; United States Bankruptcy Court Case No. 97-30111-DM-11

2) Initiation of Litigation pursuant to subdivision (c) of California Government Code Section 54956.9 (1 case)

   a. Red and White Fleet, Inc. (formerly Harbor Carriers, Inc., a subsidiary of Crowley Corporation) operating at Pier 41.

3) Discuss significant exposure to litigation pursuant to subdivision (b) of California Government Code Section 54956.9 (1 case).

D. Vote in open session on whether to disclose Executive Session discussions (S.F. Admin. Code Sec. 67.14)

At 4:15 p.m, Commissioners Hardeman, McCarthy and Lee returned from executive session and convened in public session.

ACTION: Commissioner McCarthy moved approval to not disclose any information discussed in the executive session. Commissioner Lee seconded the motion. All of the Commissioners were in favor.

The meeting was adjourned at 4:16 p.m.

SAN FRANCISCO
PORT COMMISSION

REGULAR MEETING
4:00 P.M., MAY 27, 1997
FERRY BUILDING, SUITE 3100
SAN FRANCISCO, CALIFORNIA

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AGENDA

1. **ROLL CALL**

2. **APPROVAL OF MINUTES** - May 5, 1997 Special Meeting
   - May 13, 1997 Regular Meeting

3. **EXECUTIVE**

   A. Executive Director's Report

4. **MARITIME**

   A. Approval of lease with Westar Marine Services Company for a portion of Pier 50, Shed C. (Resolution No. 97-40)

5. **REAL ESTATE AND ASSET MANAGEMENT**

   A. Approval of Exclusive Right to Negotiate with Recycle Central, Inc. regarding property at Pier 80 (eastern foot of Cesar Chavez Boulevard - nee' Army Street). (Resolution No. 97-43)

   B. Approval of Exclusive Right to Negotiate with James V. Kelly on behalf of South Beach Resort Partners, a California Limited Liability Partnership, for lease of Mission Rock Resort Restaurant located at 817 Terry Francois Blvd. (Resolution No. 97-42)

   C. Approval of Exclusive Right to Negotiate Agreement with Hornblower Yachts, Inc. for leases at Piers ½ and 3. (Resolution No. 97-41)

6. **FACILITIES & OPERATIONS**

   A. Approval to award Contract No. 2636, "Pier 48 Fire Damage and Repair and Reconstruction." (Resolution No. 97-29)

B. Authorization to advertise for competitive bids for construction contracts for the new maintenance facility and other facility improvements at Pier 50. (Resolution No. 97-44)

C. Approval of First Amendment, authorizing additional services under Professional Services Contract No. SA 39760016, "New Maintenance Facility," with Kendall Young Associates/Beverly Prior Architects, a Joint Venture. (Resolution No. 97-36)

7. PLANNING & DEVELOPMENT

8. FINANCE AND ADMINISTRATION

9. CONSENT CALENDAR

10. NEW BUSINESS / PUBLIC COMMENT

Public comment is permitted on any matter within Port jurisdiction, and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. Please fill out a speaker card and hand it to the Commission Secretary. If you have any questions regarding the agenda, please contact the Commission Secretary at 274-0406.

11. ADJOURNMENT

PORT OF SAN FRANCISCO

MEMORANDUM

May 20, 1997

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie G. Lee
Hon. James Herman

FROM: Douglas F. Wong
Executive Director

SUBJECT: **Approval of lease with Westar Marine Services for a portion of Pier 50, Shed C.**

DIRECTOR'S RECOMMENDATION: APPROVE LEASE

Background

Since 1976 Westar Marine Services (Westar) has been providing tug, barge, water taxi and other harbor services to the Northern California maritime community from their Port location at Pier 46b. Currently Westar operates under Port Licenses to Use Space Non-Exclusive No. 10621 and 10630. Pursuant to these licenses, Westar has been paying a monthly fee of $1,320 per month for 8,000 sq, ft of shed space ($0.16 per sq. ft.), which is below the minimum leasing parameters for this space. Westar also pays $214.00 per month for berthing area at Pier 46b, as well as $1,000 per month for an additional berthing space at Pier 48. Annual revenues generated to the Port by Westar's rental of these properties were approximately $30,500.00 in the last fiscal year.

Westar, which is a women owned business enterprise, has a staff of 32 people and a fleet of six tugs, four water taxis and numerous barges. They require a larger facility to handle their growing business and they will need to relocate for the proposed ballpark. Port staff therefore has negotiated the following a lease with Westar in which they would relocate and consolidate their operations to a portion of Pier 50, Shed C as well as the north apron. Rent levels in the first two years of this lease, while significantly higher that Westar's current license with the Port, will be less then the minimum provided by the leasing parameters preapproved by the Port Commission. However, beginning in the third year through the remaining eight years of the lease, Westar's rent will meet the leasing parameters preapproved by the Port Commission.

THIS PRINT COVERS CALENDAR ITEM NO. 4A

Proposed Lease No. L-12440

1.) **Premises:** 20,956 sq, ft. of shed space inside Shed C at Pier 50 for office storage and maintenance uses directly related to the operation of Westar's marine service operations and 1,300 linear ft./42,000 sq. ft. of apron and water space on the north side of Pier 50 for berthing of Westar's vessels, as shown on the attached site plan.

2.) **Term:** Ten years, commencing on June 1, 1997.

3.) **Use:** Operation of tug boat, barge and water taxi service. Mooring and service to vessels and craft. Service to water taxi passengers and storage and handling of equipment and supplies for vessels and crafts.

4.) **Base Rent:**

Year 1:	$4,191.20 for shed space ($0.20 per sq.ft.) 4,200.00 for apron space (0.10 per sq.ft.) $8,391.20 total per month
Year 2:	$5,239.00 for shed space ($0.25 per sq.ft.) 4,200.00 for apron space (0.10 per sq.ft.) $9,439.00 total per month
Year 3-10:	$6,286.80 for shed space ($0.30 per sq. ft.) 4,200.00 for apron space (0.10 per sq.ft.) $10,486.80 total per month

Base rents will also be subject to annual CPI Base Rent adjustments

5.) **Maintenance:**

Heating system: The gas line which serves the heating system inside the offices of the premises is currently not operational. The Port is attempting to repair the line, but if the Port cannot place the heating system in an operating condition within 90 days after the commencement date, the tenant may make the necessary repairs and the Port shall give the tenant a rent credit for such documented reasonable repairs.

Fender System: The fendering system at Pier 50 is in serious disrepair. In order for vessels to safely berth at this pier, the Port will replace the existing fendering system

located on the premises using eucalyptus pilings. When these pilings next require replacement due to deterioration and normal wear and tear, Westar will provide or pay the Port for all replacement material necessary and the Port will furnish the labor and equipment to replace the pilings.

The City Planning Department Office of Environmental Review has determined that this project, as part of the relocation of Port tenants from Pier 46B, is categorically exempt under the California Environmental Quality Act. A copy of the Categorical Exemption, dated April 21, 1997, is on file with the Port Commission Secretary for this item.

Prepared by: Peter A. Dailey, Acting Maritime Director

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-40

WHEREAS, Charter Section B3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

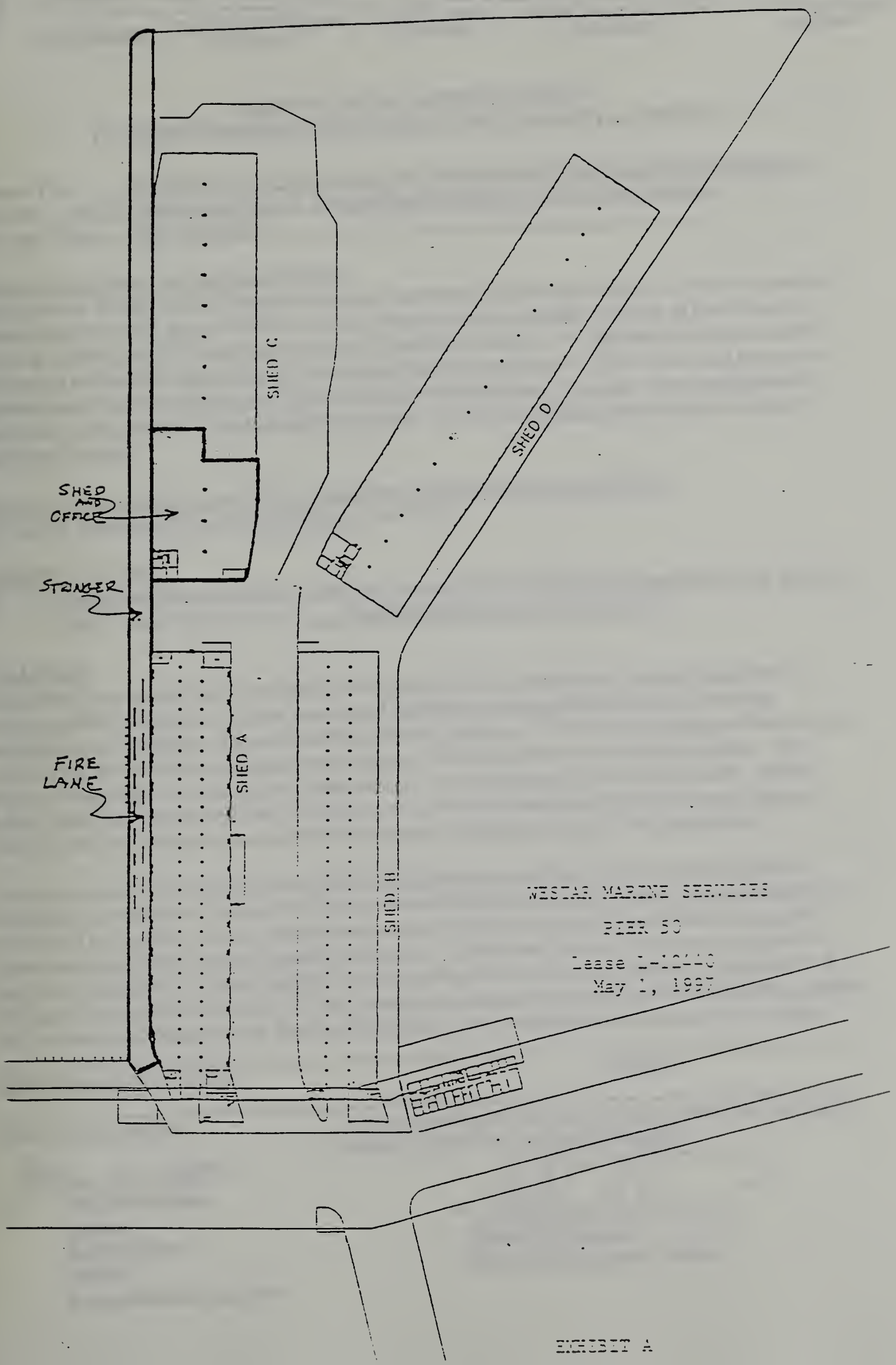
WHEREAS, under Charter Section B3.581(g) leases granted or made by the Port Commission shall be administered exclusively by the operating forces of the Port Commission: and

WHEREAS, Port Commission approval is being sought for lease No. L-12440 with Westar Marine Services, the terms of which are set forth in the Memorandum of Agenda Item 4A at the Port Commission meeting on May 27, 1997; now therefore , be it

RESOLVED, that the Port Commission hereby approves Lease No. L-12440, which incorporates the business terms set forth in the Memorandum for Agenda Item 4A of the Port Commission Meeting on May 27, 1997, and that the Executive Director, or his designee, is hereby authorized to execute Lease No. L-12440 on behalf of the Port in such final form as is substantially in the form on file with the Secretary of the Port Commission for said Agenda item and in such final form as is approved by the City Attorney.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 27, 1997.

_____
Secretary


SHED C
SHED D
SHED AND OFFICE
STANDER
FIRE LANE
SHED A
SHED B
WESTAR MARINE SERVICES
PIER 50
Lease L-10440
May 1, 1997
EXHIBIT A

PLANNING DEPARTMENT

City and County of San Francisco 1660 Mission Street San Francisco, CA 94103-2414

(415) 558-6378 PLANNING COMMISSION FAX: 558-6409 ADMINISTRATION FAX: 558-6426 CURRENT PLANNING/ZONING FAX: 558-6409 LONG RANGE PLANNING FAX: 558-6426

CERTIFICATE OF DETERMINATION OF EXEMPTION/EXCLUSION FROM ENVIRONMENTAL REVIEW

Project Title : Relocation of Port of San Francisco Maintenance Facility and commercial tenants
Location: Pier 50, Bayward of Terry A. Francois Boulevard south of China Basin channel
City and County : San Francisco

Description of Nature and Purpose of Project:
Relocation of the Port of San Francisco's existing maintenance facility and approximately six commercial tenants from Pier 46B on the north side of China Basin channel to existing structures at Pier 50 and an existing building at 555 Illinois Street, south of China Basin channel. The maintenance facility employs 94 persons and utilizes approximately 100 vehicles (cars and small trucks). The commercial tenants are primarily small-scale, non-intensive light industrial and maritime uses. The piers would undergo minor structural, utility and safety improvements and repairs. All uses are permitted by existing M-2 (Heavy Industrial) zoning.

Name of Person, Board, Commission or Department Proposing to Carry Out Project:
Port of San Francisco (Contact: Kari Kilstrom, 274-0536).

EXEMPT STATUS:
X Categorical Exemption (State Guidelines, Section 15300-15329; Public Resources Code, Section 21085). State Class Number: 1 (State Guidelines Section 15301, 15302)

REMARKS:
Categorical Exemption Class 1 "consists of the operation, repair, maintenance, or minor alteration of existing public...structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing..." Pier 50 historically has been used as a bulk cargo terminal and is currently mostly vacant. 555 Illinois Street is an existing building. The proposed tenant and code-compliance improvements to accommodate the new uses are minor, clearly falling within the intention of Class 1 activities. All of the activities to be relocated currently operate at Pier 46B and their relocation nearby would not change the intensity of uses in the general area.

There are no unusual circumstances or potential significant impacts that would preclude Categorical Exemption of the project. None of the structures are historic or potentially historic. Minor substructure work could be required. Facility improvements within the 100-foot shoreline band would require Bay Conservation and Development Commission approval. The vacated Pier 46B would become part of the site for the proposed S.F. Giants ballpark, currently undergoing environmental review. Pursuant to S.B. 181, signed by the Governor April 12, 1997, tenant and use relocation from Pier 46B to other Port property may be considered independently from the ballpark use if such relocation would otherwise be exempt.

Contact Person: Paul Deutsch 558-6383

Date of Determination:
April 21, 1997

I do hereby certify that the above determination has been made pursuant to State and Local requirements.

Hillary E. Gitelman
Environmental Review Officer

cc: Robert Passmore
Sponsor
Bulletin Board
M.D.F.
Exemption/Exclusion File

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM

May 15, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie Lee
Hon. James R. Herman

FROM: Douglas F. Wong
Executive Director

SUBJECT: Approval of Exclusive Right to Negotiate with Recycle Central, Inc. regarding property at Pier 80 (Eastern foot of Cesar Chavez Boulevard - nee' Army Street)

DIRECTOR'S RECOMMENDATION: APPROVE EXCLUSIVE RIGHT TO NEGOTIATE

BACKGROUND

Recycle Central, Inc. ("Recycle Central") a subsidiary company of Norcal Waste Systems, Inc. has approached the Port with a proposal to lease up to 105,000 square feet of shed space in Transit Shed A and approximately 400,000 square feet of paved yard space for a waste paper/dry fiber (cardboard, news print, sheet paper), plastics and metal recycling and maritime transhipment facility.

The proposed thirty (30) year lease would generate $630,000.00 in rental revenue to the Port during the first lease year; $885,000.00 during the second lease year and $1,290,000.00 after the fifth lease year (if Recycle Central exercises an option to expand into the balance of the Transit Shed A space). These rates are consistent with the minimum rental rates previously approved by the Commission.

Recycle Central anticipates investing over $32 Million in fixtures and equipment and in structural and infra-structural improvements to the facility.

THIS PRINT COVERS CALENDAR ITEM NO. 5A

Over 250 jobs will be created at the Pier 80 facility, over a hundred of which will be incremental to Recycle Central and Norcal's current work force.

The need for this recycling and maritime transhipment center is accentuated by the State of California mandate (A.B. 939) that the City and County of San Francisco achieve a fifty percent (50%) recycling recovery ratio for waste products generated within its jurisdiction by the year 1999. Norcal Waste Systems, Inc., the corporate parent of Recycle Central, through its subsidiary companies, Western Scavenger, Sunset Scavenger and Golden Gate Scavenger has the exclusive right to collect garbage and trash in the City and County. Accordingly, Recycle Central is the only feasible operator of a recycling and maritime transhipment center designed to achieve the State's recycling mandates.

Pursuant to Port Commission Leasing Policy adopted August 22, 1979 and as subsequently amended by subsection 10 of Resolution 80-95 adopted on September 10, 1980, the Port may enter into exclusive negotiations with a prospective tenant without competitive bid when competitive bid is impractical or impossible and when the property is to be used for maritime purposes.

The facility would receive pre-sorted deliveries of "dry" recyclables from Norcal Waste Systems Inc.'s subsidiary company's commercial and curb side recycling programs. These recyclables would be further sorted and compacted in Transit Shed A where they would also be loaded into 20 and 40 foot ocean shipping containers.

Given availability of space on cargo vessels calling at Port of San Francisco Container Terminals (Piers 80, 94 and 96), these loaded containers would be shipped to the recycling process centers in the Far East and, possibly to North and South American Ports, including some United States domestic ports. To the extent that space is not available on container cargo ships calling at the Port of San Francisco, these loaded containers will be transferred by barge or other vessel from Pier 80 to other Bay Area ports for shipment to their ultimate destination.

In both instances, the containers will be loaded on cargo vessels utilizing stevedores, longshoreman and clerks working at the Port of San Francisco.

To ensure that a significant portion of the containers loaded in the Pier 80 facility actually are loaded aboard cargo vessels at Port of San Francisco container terminals, the agreement will call for severe economic penalties if minimum container through-put numbers are not achieved. The agreement also will provide for economic incentives if Recycle Central achieves container through-put movement in numbers well beyond the minimum number of "required" moves.

Port staff believes that the proposed use of the Transit Shed A and Paved Yard portions of the Pier 80 Northern Container Terminal to be affected by the proposed lease will not have a significant negative impact on the Port's ability to use Pier 80 as a container handling facility. Additionally, Port staff believes that the sourcing of containerized base cargo on Port property may enhance the Port's ability to attract cargo carriers serving recyclable processing centers in the Far East.

Over 75,000 TEU's (twenty foot equivalent container units) of recyclable waste paper was exported through West Coast ports in the three month period, January - March 1996 (Source: Journal of Commerce, June 10, 1996. This number represented a precipitous decline from 1994 and 1995 numbers due to a softening of market demand in Asia. However prices and exports have been rising slowly since June of 1996. While acknowledging that the demand for recyclable waste paper is cyclical, even the ebb numbers represent a significant portion of United States foreign exports. In fact, recyclable waste paper and fiber represents the United States' single largest export commodity in terms of the number of metric tons and container units. West coast ports handled nearly 2.8 million metric tons of waste paper exports in 1995.

Substantially all the terms and conditions of the proposed lease have been negotiated and are discussed in greater detail below. This Exclusive Right to Negotiate will provide Recycle Central and Norcal Waste Systems, Inc. with the time needed to secure all of the governmental permits and regulatory approvals that must be in place before Recycle Central is prepared to enter into a formal lease agreement. No Lease approval will occur until completion and consideration by the Port Commission of environmental review of the project to the extent required by the California Environmental Quality Act (CEQA) and other regulations.

The terms of the Exclusive Right to Negotiate and the basic terms of the proposed lease agreement are discussed below:

PROPOSED EXCLUSIVE RIGHT TO NEGOTIATE:

1.	Exclusive Negotiation Period:	Six (6) months
2.	Commencement Date of Negotiating Period	June 1, 1997
3.	Termination Date of Negotiating Period	November 30, 1997
4.	Exclusive Right Fee	$143,000.00
5.	Options to Extend Negotiating Period:	Six (6) option periods of one (1) month each

6.	Option Fee:	$25,000.00 per option period
7.	Obligations of Recycle Central:	During Negotiating Period Recycle Central will secure all permits and regulatory approvals required to operate the recycling facility.

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. 97-43

WHEREAS, Charter Section B3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control Port area of the City and County of San Francisco; and

WHEREAS, Recycle Central, Inc., a wholly owned subsidiary of Norcal Waste Systems, Inc. ("Recycle Central") has proposed to develop a waste paper/dry fiber, plastics and metal recycling, sorting, loading and maritime transhipment facility at the Pier 80 Northern Container Terminal on property to be leased from the Port Commission; and

WHEREAS, Recycle Central's corporate parent, Norcal Waste Systems, Inc. through its other operating subsidiaries, has the exclusive right to collect San Francisco's garbage and trash from which the recyclable products to be loaded and shipped are sorted.

WHEREAS, The proposed use of the Pier 80 Northern Container Terminal as a waste paper/dry fiber, plastics and metal recycling, sorting, loading and maritime transhipment facility is consistent with the Seaport Plan; and

WHEREAS, Port staff has negotiated substantially all of the terms and conditions of a proposed lease; and

WHEREAS, Recycle Central has requested a six (6) month Exclusive Right to Negotiate the final terms and conditions of leases of a lease and to secure all permits and regulatory approvals and environmental review required under the California Environmental Quality Act ("CEQA"); and

WHEREAS, the approval of the Exclusive Right to Negotiate does not commit the Port to entering into a binding Lease; and

WHEREAS, it is the determination and finding of the Port Commission that Recycle Central is the only feasible operator of a waste paper/dry fiber, plastics and metal recycling, sorting, loading and maritime transhipment center at the Pier 80 Northern Container Terminal and for the reasons set forth in the Memorandum of Agenda Item 5A for the May 27, 1997 Commission meeting, a request for proposals for a similar use would prove impractical and impossible, and

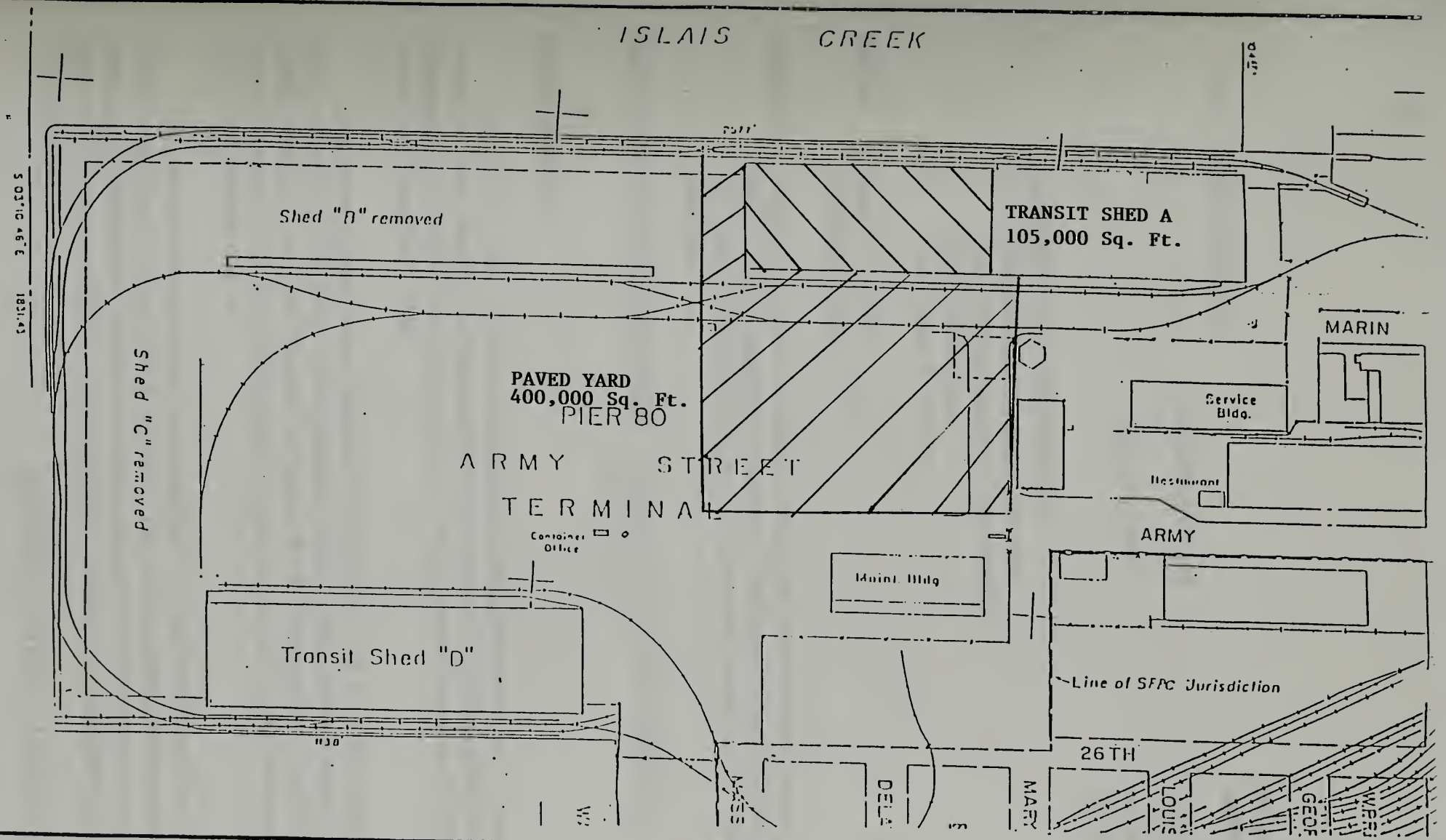
WHEREAS, it is the finding of the Port Commission that Recycle Central's use of the Pier 80 Northern Container Terminal facility to be affected by and lease would be maritime in nature; now therefore be it

RESOLVED, that the San Francisco Port Commission, hereby approves an Exclusive Right to Negotiate Agreement between the Port and Recycle Central, Inc. for a waste paper/dry fiber, plastics and metal recycling sorting, sorting, loading and maritime transhipment facility at the Pier 80 Northern Container Terminal upon final terms and conditions to be approved by the Port Commission, which terms and conditions are set forth substantially and in preliminary form in the Memorandum of Agenda Item 5A for the May 27, 1997 Port Commission Meeting.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 27, 1997.

_____
Secretary

G:\WP51\AGENDAS\NORCAL2.MEM\ND\jef\May 22, 1997



APPROVED BY
SAN FRANCISCO PORT COMMISSION
DATE _____

_____
CHIEF HARBOR ENGINEER

SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING

RECYCLE CENTRAL, INC.
PIER 80 NORTHERN CONTAINER TERMINAL

DESIGNED BY:	CHECKED BY:
DRAWN BY:	DATE:
CONTRACT NO.	SCALE:
DRAWING NO.	

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM

May 21, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie Lee
Hon. James R. Herman

FROM: Douglas F. Wong
Executive Director

SUBJECT: Approval of Exclusive Right to Negotiate Agreement with James V. Kelly on behalf of South Beach Resort Partners, a California Limited Liability Partnership, for lease of Mission Rock Resort Restaurant located at 817 Terry Francois Boulevard

DIRECTOR'S RECOMMENDATION: APPROVE EXCLUSIVE RIGHT TO NEGOTIATE

BACKGROUND

On April 23, 1996 , the Port Commission adopted Resolution No.96-33, which authorized Port staff to issue a Request for Proposals ("RFP") for lease of the Mission Rock Resort restaurant (Attachment A). The RFP was issued on May 13, 1996, amended September 25, 1996 and further amended on November 5, 1996.

Responsive proposals were received on November 14, 1996 from three offerors: James V. Kelly on behalf of South Beach Resort Partners ("SBRP"); Mission Rock Resort (817) Partners ("MRR Partners"); and The Shipyard at Mission Rock ("Shipyard"). Two Non-Responsive proposals were received. The determination of responsiveness was made by Port staff with review by the City Attorney's office.

The three responsive proposals were evaluated by a panel consisting of four members, two from Port staff and two from outside the Port. The panel members have expertise in property management, development, planning and restaurant operations. The composition of the panel was approved in advance by the Port's Human Rights Commission representative and by the Port's EEO Specialist.

THIS PRINT COVERS CALENDAR ITEM NO. 5B

Each proposal was read and analyzed separately by the panel members before oral interviews were held. All three proposers made oral presentations to the panel. At the end of all the interviews, the panel completed grading the proposals in accordance with the scoring criteria set forth in the RFP. The maximum potential score was 147 points.

The selection criteria included base rent, capital investment, cash flow projections, experience and qualifications in restaurant operations, financial ability to fund the improvements, appropriateness of the proposed use, operations, atmosphere, and responsiveness in the oral interviews. Using these criteria, South Beach Resort Partners received the highest score from the panel. The panel concluded, and Staff agrees, that SBRP proposed the best concept for the restaurant site, demonstrated the best restaurant experience, menu, design plans and improvement schedule, was the most likely to run a successful establishment (and thus provide a strong revenue stream to the Port) and had the best financial backing. James Kelly, the managing general partner, has an established track record as a successful restaurateur, having founded and operated Pat O'Shea's Sports Bar on Geary Blvd. for many years. The panel considered the Port's objective in having the site renovated and brought up to code. SBRP's capital investment of $533,755 will be made all in the first year to upgrade the restaurant for immediate operation. This amount will adequately fund repair of code violations and allow for installation of other improvements which will enhance the restaurant site. The results, taken as an average of all four panel members' scores, were as follows:

South Beach Resort Partners:	123.38 points
Mission Rock Resort (817) Partners:	105.63 points
The Shipyard at Mission Rock :	56.50 points

The Port and SBRP then met and negotiated the terms set forth in the Exclusive Right to Negotiate Agreement.

PROPOSAL

The Port has prepared an Exclusive Right to Negotiate Agreement with James Kelly (Attachment B) commencing May 28, 1997 for a six-month, two-day period to: (1) allow the parties to finalize all the terms and conditions of a proposed lease with South Beach Resort Partners, an entity to be created in the form of a California Limited Liability Partnership, with James Kelly as Managing General Partner, for premises located at 817 Terry Francois Boulevard, commonly known as the Mission Rock Resort Restaurant; and (2) allow the project to undergo review by the City Office of Environmental Review under the California Environmental Quality Act ("CEQA"). Once CEQA review is completed, and the parties have successfully negotiated the lease agreement, this transaction will be calendared for Port Commission consideration. The terms and conditions of the proposed new lease are summarized below and are contained in an Exhibit 1 attached to the Exclusive Right to Negotiate Agreement.

Tenant: A new entity will be created, South Beach Resort Partners, a California Limited Liability Partnership ("SBRP"), of which James V. Kelly will be the Managing General Partner.

Premises: The site located at 817 Terry Francois Boulevard, San Francisco, presently known as the Mission Rock Resort Restaurant, consisting of a building comprising approximately 3,500 square feet on two levels; approximately 2,500 square feet of deck area; and approximately 4,000 square feet of paved land adjacent to the building.

Marina: The marina will not be part of the Premises, but SBRP will have a right of first refusal to re-construct and operate the marina.

Uses: The Premises will be used for the operation of a public restaurant offering full service dining, casual dining, entertainment and retail space for sale of souvenir items.

Lease Term: Fifteen (15) years; plus two five-year options

Base Rent:

Monthly	Annual
$9,888.00	$118,656.00

Base Rent will be adjusted annually by the CPI. On the 5th and 10th anniversary dates, it will be adjusted to the greater of (i) an amount which equals sixty percent (60%) of the average monthly Rent paid during the previous 36 months, or (ii) the annual cost of living increase according to the CPI. During the option periods, Base Rent will be adjusted to the then current full fair market rental value, as determined by a survey of rental rates for comparable S.F. restaurants.

Percentage Rent:

Full service dining:	7.0% of gross receipts
Casual Dining:	9.0% of gross receipts
Retail/Other Sales:	9.0% of gross receipts

During the option periods, Percentage Rent will be adjusted to the then current full fair market rental value, as determined by a survey of percentage rental rates for comparable S.F. restaurants.

Rent Abatement: Tenant shall be entitled to abate the Base Rent for six (6) months at the beginning of the Term for the purpose of installing improvements.

Tenant Improvements: Tenant is obligated to make certain improvements to the restaurant facility and to expend a minimum of $533,755.00 for these improvements, in accordance with plans and specifications approved in advance by Port.

Hazardous Materials Remediation: As per Sections III.H. and IV.A. of the RFP, which, in brief, states, that if the cost to remediate hazardous materials in the soil exceeds $65,000, either party may terminate the lease; if the cost is $30,000 or less, Port and Tenant will split the cost equally; if the cost is between $30,000.01 and $65,000, Tenant's share will not exceed $15,000, and the Port will be responsible for the remainder; total cost of remediation to be paid initially by Tenant with reimbursement given through rent credits over term of lease until paid.

Utilities, Services and Taxes: Tenant will be responsible for all utilities, services and possessory interest taxes.

Security Deposit: $19,776.00. Sum is forfeited if Tenant fails within six months after lease commencement to substantially complete construction of the improvements or to invest the amount required.

ANALYSIS

In approving the Exclusive Right to Negotiate with SBRP, the Port receives the following benefits from this proposed transaction:

(1) the Port will maximize its revenue potential for the Mission Rock Resort site. It is anticipated that SBRP will pay percentage rent in excess of the Base Rent from the beginning of operation.
(2) the Port will have an experienced restaurant operator as a tenant which will re-vitalize the facility, offer new menu items and entertainment and attract new and more patrons to the Site;
(3) the restaurant facility will be brought up to code and greatly improved with new improvements;
(4) Base Rent will be substantially increased over the current Base Rent being paid by the existing tenant.

Prepared by: Jennifer Sobol, Commercial Property Manager, Leasing

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. 97-42

WHEREAS, Charter Section B3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, under Charter Section B3.581(g) leases granted or made by the Port Commission shall be administered exclusively by the operating forces of the Port Commission; and

WHEREAS, the Port issued a Request for Proposals for lease of premises located at 817 Terry Francois Boulevard commonly known as the Mission Rock Resort Restaurant (the "Site") and three proposals were submitted, and South Beach Resort Partners ("SBRP") received the highest score by an independent selection panel; and

WHEREAS, Port staff has determined that SBRP and James V. Kelly ("Kelly") are the best qualified proposer; and

WHEREAS, Port staff and SBRP, an entity to be created in the form of a California Limited Liability Partnership, by and through its Managing General Partner James V. Kelly, have negotiated substantially all of the terms and conditions of the proposed lease for the Site; and

WHEREAS, Kelly has requested a six-month, two-day exclusive right to negotiate the final terms and conditions of a lease for the Site and to have the project reviewed under the California Environmental Quality Act ("CEQA"), in the form indicated in Attachment B hereto; and

WHEREAS, the Port Commission has determined that, based upon the facts set forth in the Memorandum of Agenda Item 5B for the May 27, 1997 Port Commission meeting, said exclusive right to negotiate with Kelly is appropriate; and

WHEREAS, no lease approval or binding commitment to enter into a lease will occur until completion and consideration by the Port Commission of environmental review of the project to the extent required by CEQA: now therefore, be it

RESOLVED, that the Port Commission hereby awards to James V. Kelly on behalf of South Beach Resort Partners, a California Limited Liability Partnership, the exclusive right to negotiate; and be it further

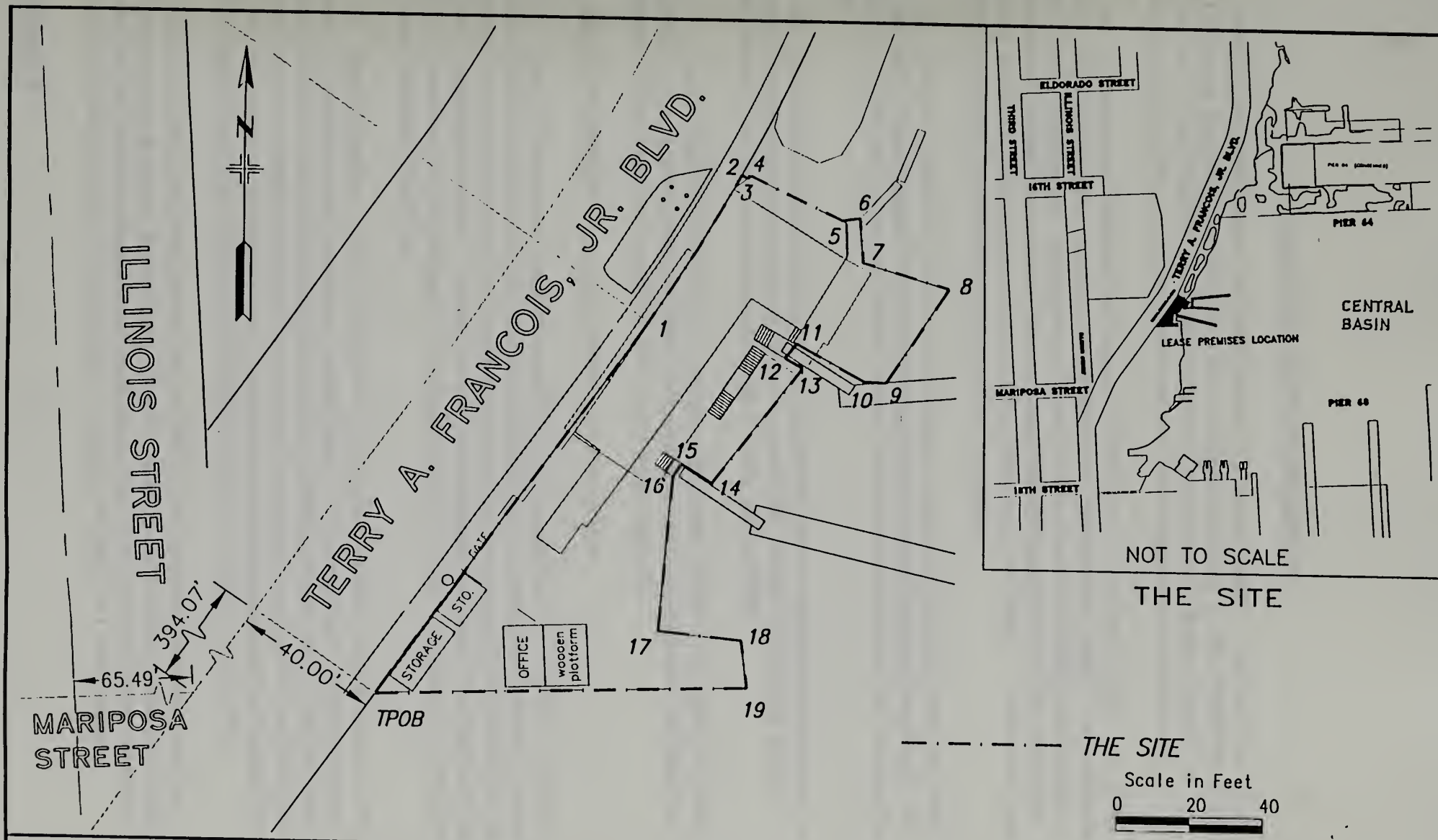
RESOLVED, that the Port Commission hereby approves an Exclusive Right to Negotiate Agreement between the Port and Kelly for the Site as indicated in Attachment B hereto, and the Port Commission authorizes the Executive Director of the Port, or his designee, to execute said Exclusive Right to Negotiate Agreement.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 27, 1997.

_____
Secretary

I:\WP51\SBRPEXRT.MRR 5/20/97

Attachment A



APPROVED BY SAN FRANCISCO PORT COMMISSION DATE _____ _____ CHIEF HARBOR ENGINEER	**PORT OF SAN FRANCISCO** **SAN FRANCISCO PORT COMMISSION** **DEPARTMENT OF ENGINEERING**	MISSION ROCK RESORT RESTAURANT SITE PLAN OF LEASE AREA	DESIGNED BY: J. SOBOL DRAWN BY: AMN DATA FILE: -- DRAWING NO. \MISSROCK\RESORT2.DWG CHECKED BY: -- DATE: 20 SEP 96 SCALE: 1" = 40' SHEET NO. 1 OF 3 SHEETS

EXCLUSIVE RIGHT TO NEGOTIATE

THIS EXCLUSIVE RIGHT TO NEGOTIATE ("Exclusive Right") is entered into as of this 21st day of May 1997, by and between the **City and County of San Francisco** ("City"), acting by and through its **Port Commission** ("Port"), and **James V. Kelly** ("Kelly"), an individual, upon the following facts, intentions and understandings of the parties:

A. Pursuant to a Request for Proposals ("RFP"), issued by Port on May 13, 1996, James V. Kelly ("Kelly"), on behalf of South Beach Resort Partners ("SBRP"), a California Limited Liability Partnership, submitted a proposal for the lease, remodeling and operation of a restaurant (presently known as Mission Rock Resort) located at 817 Terry Francois Boulevard, located in the City and County of San Francisco (the "Site"). A selection panel rated Kelly's proposal the highest of all proposals submitted.

B. Pursuant to the RFP, Port and Kelly desire to enter into an agreement by which SBRP, an entity to be created in the form of a California Limited Liability Partnership, of which Kelly will be the Managing General Partner, will have an exclusive right to negotiate a lease.

C. The purpose of the lease is to grant SBRP the right to remodel and operate the Site under the general terms agreed upon by Port and Kelly herein and subject to all required permits and approvals being obtained by Kelly and/or SBRP.

D. The parties now desire to enter into this Exclusive Right to set forth the terms and conditions upon which Port and SBRP will enter into lease negotiations and seek to complete a written lease document for Port Commission approval.

NOW, THEREFORE, the parties hereto agree as follows:

1. Term. The term of this Exclusive Right shall commence on May 28, 1997, and shall expire on November 30, 1997, unless extended in accordance wtih Section 3 below. The term of this Exclusive Right, including any extensions, is hereinafter referred to as the "Exclusive Negotiation Period." During the Exclusive Negotiation Period, the Port will not solicit or consider any other proposals or negotiate with any other developer with respect to the development of the Site.

2. Negotiation Fee. Upon execution of this Exclusive Right, Kelly shall pay to Port a lump sum, by cashier's cash, receipt of which hereby is acknowledged, in the amount of Nineteen Thousand, Seven Hundred Seventy-Six and No/100 Dollars ($19,776.00) as a non-refundable fee ("Negotiation Fee") for the right to negotiate exclusively with the Port during the Exclusive Negotiation Period. Port shall credit the Negotiation Fee against the Security Deposit due from SBRP if Port and SBRP enter into a lease for the Site.

Port shall return the Negotiation Fee to SBRP in full, without interest if the Port Commission or the Board of Supervisors refuses or fails to approve the Lease prior to the expiration of the Exclusive Negotiation Period, or any extension thereof, after SBRP has obtained all necessary approvals and permits, and has provided Port with evidence

satisfactory to Port of its ability to finance the improvements. Port, at its sole discretion, may extend such period of time.

3. **Extension of Negotiating Period**.

a. Option Period. Kelly shall have three (3) one-month options (each an "Option Period") to extend the Exclusive Negotiation Period, commencing on December 1, 1997. Kelly shall exercise each option to extend by written notice of the exercise of such option delivered with cash, check or money order payment of One Thousand Five Hundred Dollars ($1,500.00) per Option Period (each an "Option Payment") to Port at the address for notices set forth in Section 9 below, not less than ten (10) days prior to the commencement of the next Option Period.

b. Option Payment Non-Refundable. Each Option Payment shall be non-refundable; provided, however, that Port shall credit any Option Payment against rent due by SBRP in the event that Kelly or SBRP delivers an Option Payment for a subsequent Option Period and the Port Commission approves a lease for the Site with SBRP before the commencement of that subsequent Option Period. Kelly's failure to exercise any Option Period in accordance with this Section 3, at Port's sole option, shall extinguish all future Option Periods and shall terminate this Exclusive Right as of the last date of the Term or the applicable Option Period.

4. **Negotiation of Lease**. During the Exclusive Negotiation Period, Port and Kelly shall seek to complete a lease between Port and SBRP for the Site, which lease shall be subject to Port Commission approval. Both parties hereto agree to negotiate the terms of such lease in good faith.

The lease shall be in substantial conformity with the terms set forth in the term sheet attached hereto as Exhibit 1, which terms have been agreed upon by the parties; provided, however, that the terms set forth in Exhibit 1 are subject to change by mutual agreement of the parties. The parties acknowledge that the terms of Exhibit 1 merely purport to set forth general principles upon which the parties have agreed; any binding lease shall be subject to review and approval by the parties, their respective legal counsel, the San Francisco Port Commission and the San Francisco Board of Supervisors. Port shall have no obligation to enter into a Lease unless it has received from Kelly evidence reasonably satisfactory to Port of SBRP's ability to finance the proposed tenant improvements.

The parties further acknowledge that certain regulatory approvals are required for the use of the Site (collectively "Regulatory Approvals"), including, but not limited to, all necessary approvals from the Bay Conservation Development Commission ("BCDC") and environmental review by the Office of Environmental Review ("OER") pursuant to the California Environmental Quality Act. Environmental review by OER shall be completed prior to the approval of any lease by Port. The effectiveness of any such lease shall be conditioned upon Kelly and/or SBRP obtaining all other Regulatory Approvals subsequent to the Port Commission's approval of any such lease.

5. **Regulatory Approvals, Submittals, and Disclosures.**

a. Kelly/SBRP's Obligations. Kelly agrees that:

(i) he shall diligently and in good faith pursue all Regulatory Approvals;
(ii) he shall be solely responsible for obtaining all Regulatory Approvals, and shall not seek any Regulatory Approval without first obtaining the approval of Port;
(iii) he shall bear all costs associated with or complying with any necessary, Regulatory Approval except those costs incurred by Port in complying with subsection 5.b below;
(iv) he will pay and discharge any fines or penalties imposed as a result of the failure of Kelly and/or SBRP to comply with the terms and conditions of any Regulatory Approval, and Port shall have no liability, monetary or otherwise, for said fines and penalties.
(v) to the fullest extent permitted by law, Kelly and SBRP agree to indemnify and hold City, Port and their officers, agents and employees harmless from and against any loss, expense, cost, damage, attorneys' fees, penalties, claims or liabilities which City or Port may incur as a result of Kelly's or SBRP's failure to obtain or comply with the terms and conditions of any Regulatory Approval.
(vi) he shall submit to Port, OER, BCDC and any other regulatory agency having approval over the project, all specifications, descriptive information, studies, reports, disclosures and any other information required to satisfy the application filing requirements of those agencies.

b. Port's Obligations. Port agrees that it will cooperate with Kelly and SBRP in filing for, processing and obtaining all Regulatory Approvals, and to the extent required by any regulatory agency issuing a Regulatory Approval, it will join with Kelly and SBRP as co-applicant in filing, processing and obtaining all Regulatory Approvals necessary for the permitted uses specified in Exhibit 1 attached hereto. Nothing contained herein shall be deemed to limit or otherwise constrain Port's discretion, powers and duties as a regulatory agency of the City with certain police powers.

6. **Non-Assignment.** The parties acknowledge that Port is entering into this Exclusive Right on the basis of the special skills, capabilities and experience of James V. Kelly. This Exclusive Right is personal to James V. Kelly and is not assignable except to South Beach Resort Partners, a California Limited Liability Partnership to be created, of which James V. Kelly will be the Managing General Partner. Any attempted assignment of this Exclusive Right to an entity other than SBRP, or the re-structuring of SBRP such that James V. Kelly does not become or no longer remains the Managing General Partner of SBRP, shall be considered an event of default under this Exclusive Right and shall immediately and without opportunity to cure give rise to Port's remedies provided in Section 7 (Default) below.

7. **Default**.

a. Event of Default. The occurrence of any of the following shall constitute a default by Kelly after notice of the default and the expiration of the applicable cure period, if any:

(i) Failure to pay any sums due hereunder when due.
(ii) Failure to perform or abide by any other provision of this Exclusive Right if such failure is not cured within twenty (20) days after notice has been given to Kelly. If the default cannot reasonably be cured within 20 days, Kelly shall not be in default of this Exclusive Right if he commences to cure the default within the 20-day period and diligently and in good faith continues to cure the default.
(iii) Either (a) the filing by Kelly of a petition to have Kelly adjudicated insolvent and unable to pay his debts as they mature or a petition for reorganization or arrangement under any bankruptcy or insolvency law, or a general assignment by Kelly for the benefit of creditors; or (b) the filing by or against Kelly of any action seeking reorganization, arrangement, liquidation, or other relief under any law relating to bankruptcy, insolvency, or reorganization or seeking appointment of a trustee, receiver, or liquidator of Kelly or of any substantial part of Kelly's assets.

b. Port's Remedies. In the event of default, Port, at its option, may terminate this Exclusive Right upon written notice to Kelly, sent in accordance with Section 9 (Notices) below. This remedy is not exclusive, but shall be cumulative with any remedies now or later allowed by law.

8. **Attorney's Fees**. In the event of any action or proceedings at law or in equity between Port and Kelly to enforce any provision of this Exclusive Right to protect or establish any right or remedy of either party to this agreement, the unsuccessful party to such litigation shall pay to the prevailing party all costs and expenses as determined by the court, including reasonable attorneys' fees, incurred therein by such prevailing party; and if such prevailing party shall recover judgment in any such action or proceeding, such costs, expenses and attorney's fees shall be included in and as a part of such judgment. For purposes of this Exclusive Right, reasonable fees of attorneys of the Office of City Attorney shall be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience (calculated by reference to earliest year of admission to the Bar of any State) who practice in the City in law firms with approximately the same number of attorneys as employed by the Office of City Attorney.

9. **Notices**. Any notice given under this Exclusive Right shall be in writing and given by delivering the notice in person, by commercial courier or by sending it by registered or certified mail, or Express Mail, return receipt requested, with postage prepaid, to the mailing address listed below or any other address notice of which is given. For the convenience of the parties, copies of notices may also be given by telefacsimile, to the

telephone number listed below or such other numbers as may be provided from time to time.

Port:	**Commercial Property Manager** **Port of San Francisco** **Room 3100, Ferry Building** **San Francisco, CA 94111** **Facsimile: (415) 274-0578** **Telephone: (415) 274-0510**
Kelly/SBRP:	**South Beach Resort Partners, L.L.P.** **c/o William M. Lofton, Esq.** **Lofton, DeLancie & Nelson, Attorneys at Law** **505 Montgomery Street, Suite 1550** **San Francisco, CA 94111** **Facsimile: (415) 772-1909** **Telephone: (415) 772-1900**
with a copy to:	**Mr. James V. Kelly** **132 Ripley Street** **San Francisco, CA 94110** **Facsimile: (707) 829-5319** **Telephone: (707) 829-6832**

Any mailing address or facsimile number may be changed at any time by giving written notice of such change in the manner provided above at least ten (10) days prior to the effective date of the change. All notices under this Exclusive Right shall be deemed given, received, made or communicated on the date personal receipt actually occurs or, if mailed, on the delivery date or attempted delivery date shown on the return receipt. A person may not give official or binding notice by facsimile. The effective time of a notice shall not be affected by the receipt, original, of a facsimile copy of the notice.

10. City Requirements

a. Non-Discrimination. Kelly shall not, in carrying out his obligations hereunder, discriminate against any person or group of persons solely because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, gender identity, disability or acquired immune deficiency syndrome (AIDS) or AIDS related condition (ARC). The provisions of Chapters 12B and 12C of the San Francisco Administrative Code, relating to nondiscrimination by parties contracting with the City and County of San Francisco, are incorporated herein by this reference and made a part hereof as though fully set forth herein. SBRP agrees to comply with all provisions of such Chapters 12B and 12C that apply to tenants and licensees of the City and County of San Francisco.

b. MacBride Principles-Northern Ireland. City urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages such

companies to abide by the MacBride Principles. City urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

c. Tropical Hardwood Ban. City urges Kelly not to import, purchase, obtain, or use for any purpose, any tropical hardwood or tropical hardwood product.

11. Captions Used. Captions or titles utilized in the terms and conditions of this Exclusive Right are used for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

12. Time is of the Essence. Time is of the essence of each provision of this Exclusive Right.

///

///

WHEREFORE, this Exclusive Right to Negotiate was executed by the parties hereto on the last date set forth hereinbelow.

"Kelly"

_____
JAMES V. KELLY

Dated:_____

"Port"
CITY AND COUNTY OF SAN FRANCISCO by and through its Port Commission

By_____
V. Fei Tsen
Director, Real Estate & Asset Management

Dated:_____

Approved as to Form:
LOUISE H. RENNE
City Attorney

By:_____
Deputy City Attorney

Dated:_____

F:\WP51\MRR\EXRTSBRP.DT1 5/20/97

SOUTH BEACH RESORT PARTNERS, L.L.P.

PROPOSED LEASE TERMS AND CONDITIONS

Tenant: Entity to be created: South Beach Resort Partners, a California Limited Liability Partnership, of which James V. Kelly will be the Managing General Partner

Premises: The site located at 817 Terry Francois Boulevard, San Francisco, presently known as the Mission Rock Resort Restaurant, consisting of:
(1) a building comprising approximately 3,500 square feet on two levels
(2) approximately 2,500 square feet of deck area adjacent to the building
(3) approximately 4,000 square feet of paved land adjacent to the building
(4) The Premises will include a license for access from the street to the marina (exact location to be determined) for access to the docks at all times by boat berthers and by the general public.

Marina: The marina will not be part of the Premises. If Port decides to re-build and operate the marina, or to lease it to a third party for re-construction and operation, Port will first offer the opportunity to lease and re-build to SBRP. SBRP acknolwedges Port's right to re-build the marina. Port shall submit any design plans to SBRP for its review and SBRP may request revisions to address any impact such plans may have on its business operations.

Uses: The Premises will be used for the operation of a public restaurant offering full service dining, casual dining, entertainment and not more than 400 square feet of retail space to be used for sales of in-house signature items (approved list of items to be attached as exhibit to lease), and for no other purposes. "Full service dining" and "casual dining" are defined in the RFP. Tenant agrees to allow the public to use the first floor restrooms during the restaurant's operating hours.

Term of Lease
Initial Term: Fifteen (15) years commencing one day after issuance of a permit by BCDC, or one day after the date the Lease is executed by the Port, whichever is later. The Lease will be executed by the Port after the Mayor signs the Board of Supervisors' Resolution approving the Lease. The effectiveness of the Lease may be delayed if Port cannot deliver possession on the required date, in which case the lease will become effective at such time as possession of the Premises can be delivered to Tenant.

Attachment B **EXHIBIT 1**

Options: Two options for five (5) years each, exercisable in writing at least six (6) months prior to the expiration of the term then in effect.

Base Rent:	Monthly	Annual
Initial Term:	$9,888.00	$118,656.00

Option Periods: At the beginning of each 5-year option period, the monthly Base Rent will be adjusted to the then current full fair market rental value, as determined by the Port Commission based on a survey of rental rates for comparable restaurants in San Francisco. In no event shall the Base Rent during the option periods be less than that of the Initial Term or of the previous option period.

Percentage Rent: Percentage Rent will be due monthly and will be calculated as a percentage of gross receipts, offset by the Base Rent. "Gross Receipts" is defined in the RFP. If the Percentage Rent does not exceed the Base Rent, only the Base Rent will be payable to Port for that month. Percentage Rent will be calculated in accordance with the following schedule:

Initial Term:

Full service dining:	7.0% of gross receipts
Casual Dining:	9.0% of gross receipts
Retail/Other Sales:	9.0% of gross receipts

Option Periods: At the beginning of each 5-year option period, the Percentage Rental rates will be adjusted to the then current full fair market rental value, as determined by the Port Commission based on a survey of percentage rental rates for comparable restaurants in San Francisco.

Periodic Base Rent Adjustment:

Initial Term: The monthly Base Rent will be adjusted annually by the Consumer Price Index. On the 5th and 10th anniversary dates, the Base Rent will be adjusted to the greater of (i) an amount which equals sixty percent (60%) of the average monthly Rent (Base Rent plus Percentage Rent in excess of Base Rent) paid during the previous 36 months, or (ii) the annual cost of living increase according to the Consumer Price Index

Option Periods: As set forth above under Base Rent.

Rent Abatement: At the beginning of the Initial Term, Tenant shall be entitled to abate the monthly Base Rent in full for six (6) months for the purpose of installing Tenant Improvements. There shall be no abatement of Percentage Rent. Tenant shall be entitled to abate rent for remediation of hazardous materials in the soil, in accordance with Section III.H. of the RFP.

Tenant

Attachment B **EXHIBIT 1**

Improvements: Tenant is obligated to make certain improvements to the restaurant facility and to expend, within six (6) months after the commencement of the Lease, a minimum amount of $533,755.00 for said improvements, in accordance with plans and specifications approved in advance by Port; Tenant shall repair all building code violations and comply with all applicable building codes; Tenant is required to improve the restaurant facility to the design and standards proposed in its proposal; design is subject to the approval of Port's Design Advisors; items which may be included in the cost of improvements are defined under "capital investment" in Section I.E. of the RFP; failure to substantially complete construction of the improvements or to invest the amount required by the stated timetable will constitute a material breach of the Lease and potential Lease termination by Port.

Regulatory Approvals: Construction work must conform to all applicable building codes and regulations; Tenant must comply with all fire and life safety requirements, with the Americans with Disabilities Act and with Title 24 of the California Building Code; Tenant is responsible for obtaining all necessary permits and licenses, including, but not limited to, a Port Building Permit, S.F. Health Department permits, a permit from BCDC, a license from the Department of Alcoholic Beverage control, etc.

Hazardous Materials Remediation: As per Sections III.H. and IV.A. of the RFP.

Maintenance of Premises: Tenant shall be responsible for all maintenance, repairs and operating expenses except that Port shall be responsible for the maintenance and repair of the seawall.

Utilities, Services and Taxes: Tenant will be responsible for all utility installations and charges (gas, water, sewer, electricity, telecommunications, etc.); for payment of all services (janitorial, garbage and trash collection, recycling, extermination, security, etc.); and for payment of any possessory interest taxes assessed on its leasehold interest.

Security Deposit: $19,776.00 in cash, presently on deposit with Port.

The Negotiation Fee submitted with the Exclusive Right to Negotiate will become the Security Deposit under the Lease and remain on deposit with the Port during the Term of the Lease; no interest is payable to Tenant; as Base Rent is increased, the Security Deposit will be increased by two times the amount of the monthly increase. The Security Deposit will be forfeited if SBRP fails, within six (6) months after the commencement of the Lease, to substantially complete

construction of the improvements or to invest the amount required for improvements.

Insurance: General Liability (in amount to be determined by City's Risk Manager); Worker's Compensation; Property Insurance on the Premises; Automobile Liability; Personal Property; Business Interruption; Builder's Risk; and any other insurance required by law.

Bond: Tenant will be required to furnish the Port with a Materialman's Completion Bond issued by a responsible surety company, satisfactory to the Port in the Port's reasonable discretion, licensed to do business in California, in an amount not less than the value of the improvements proposed to be constructed.

Minority Participation Goals:

(a) For Construction of Capital Improvements
Tenant is required to comply with the following subcontracting goals: 25% of the cost of the improvements (excluding architectural and engineering services) must be allotted to MBE firms; 2% to WBE firms.

(b) For Contracting of Services and Supplies
Tenant shall use good faith efforts to contract with certified MBE and WBE firms for the contracting of services and supplies for the daily operation of the restaurant, in accordance with S.F. Administrative Code Chapters 12B, 12C and 12D. The lease will contain appropriate MBE and WBE participation goals, to be negotiated with Port's HRC representative.

(c) Hiring Goals
Tenant shall be required to implement an Affirmative Action Plan to ensure equal opportunity in employment, in accordance with Chapters 12B and 12C of the S. F. Administrative Code.

City Requirements: Tenant is required to comply with the non-discrimination provisions of Chapters 12B and 12C of the S.F. Administrative Code, including the provisions which prohibit discrimination in the provision of benefits between employees with registered domestic partners and employees with spouses; Tenant agrees not to do business with the government of Burma, and to abide by the other City requirements set forth in the standard lease.

PORT OF SAN FRANCISCO

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MEMORANDUM

May 20, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie Lee
Hon. James R. Herman

FROM: Douglas F. Wong
Executive Director

SUBJECT: Approval of Exclusive Right to Negotiate Agreement with Hornblower Yachts, Inc. for leases at Piers ½ and 3

DIRECTOR'S RECOMMENDATION: APPROVE EXCLUSIVE RIGHT TO NEGOTIATE

BACKGROUND

Hornblower Yachts, Inc and Ferryboat Santa Rosa Partners, Ltd.

Hornblower Yachts, Inc. ("Hornblower"), whose corporate headquarters are located at Pier 3, has operated dining yacht excursions from Port property since 1980. During the 1995/96 Fiscal Year, Hornblower generated gross sales of $6,281,590 from the excursions that it operates under agreements with the Port, and paid $469,120 of total rent to the Port, including $245,068 of percentage rent in excess of base rent. Hornblower is thus the second highest volume excursion operator on Port property (after Red & White Fleet). It also produces the 3rd highest revenue to the Port among its existing maritime businesses (after San Francisco Drydock and Red & White Fleet) and the 12th highest revenue among all businesses on Port property.

THIS PRINT COVERS CALENDAR ITEM NO. 5C

In addition, Hornblower, which also operates excursions in Berkeley, Oakland, San Diego, Newport Beach, Marina del Rey, and Lake Tahoe is recognized as the highest volume dining excursion operator in the Western United States. Hornblower is also involved with ferry service and excursion operations outside of the Western United States in New York, Connecticut, Florida, Indiana and Mississippi.

Despite being one of the top revenue producers for the Port, Hornblower has only been a month-to-month tenant of the Port, occupying spaces spread out from Pier 33 to Pier 26 under 6 different tenancy agreements, which are outlined in the following table:

Port Facility	Type of Tenancy	Document No.	Sq. Ft.	Monthly Base Rent	Use/Comments
Pier 31/33	MTM License	11165	43,927	$17,089.20	Excursion berthing and operations, and parking Percentage rental lease.
Pier 33	MTM License	10940	522	104.50	Shed
Pier 33	MTM License	11053	1,402	280.40	Shed
Pier 3	MTM Lease	L-12348	7,607	2,966.73	Shed
Pier 1	MTM Lease	L-12255	410	287.00	Office
Pier 26	MTM Lease	L-11820	1,827	740.17	Shed
Total			55,695	$21,468.00	

Among the premises demised in the above existing agreements, Hornblower only berths passenger vessels and loads and unloads passengers from the premises it leases at Pier 31/33 under License 11165. However, because of the limited landing berth capacity at Pier 31/33, Hornblower also loads and unloads passengers at Pier ½, Pier 1, and South Beach Marina, which results in reduced revenues to the Port. (For comparison, Hornblower has only two landing berths on premises it leases from the Port, while Red & White Fleet has seven berths, Blue & Gold has four berths, and Pacific Marine Yachts at Pier 39 has four berths.)

The owner of Hornblower is also the principal of Ferryboat Santa Rosa Partners, Ltd. ("FSRP"), which owns the *Ferryboat Santa Rosa* that is berthed at Pier 3 under Port Lease No. L-10421 ("**Santa Rosa Lease**"). This lease, which is for 10,000 sq. ft. of open pier space plus adjacent water space, has a remaining term of approximately 15 years, expiring October 31, 2012. The current monthly base rent is $3,056.70, versus 10% of gross revenues received from sub-tenants. The permitted uses are offices, museum uses, and meeting and banquet facilities. Currently, the

only sub-tenant is Hornblower, which uses the *Ferryboat Santa Rosa* for its offices, and the gross revenue received by FSRP (which is at or above market) results in no percentage rent being due the Port in excess of base rent. FSRP also leases 1,200 sq. ft. of additional space on Pier 3 for $296.26 per month for parking under month-to-month Lease No. 11481.

The total base rent paid to the Port by Hornblower and FSRP therefore equals approximately $22,016 per month, or $264,187 per year. With percentage overage rent, the total rent paid to the Port by Hornblower and FSRP currently amounts to approximately $509,255 per year.

Hornblower desires to consolidate its operations closer to the Financial District at Piers ½ and 3, and to commit to a longer term tenancy, similar to that of FSRP. This consolidation will enable Hornblower to enhance and expand its operation and to be positioned to better serve its market, which is not based upon tourists, but rather local businesses, conventions, and Bay Area residents. In addition, the *America One* syndicate--the America's Cup challenge sponsored by the St. Francis Yacht Club--desires to incorporate its racing sailboat compound into this consolidated Hornblower facility, including utilization of the *Ferryboat Santa Rosa*.

Port's Excursion Policy

On October 28, 1992, the Port Commission approved the Policy for Accommodating Additional Excursion Boats at the Port of San Francisco (Resolution No. 92-112). This policy established rental guidelines for Port staff to negotiate excursion vessel leases, including percentage rents equal to 5% to 7% of gross receipts. This policy also identified Piers 3 and 9 as suitable locations for accommodating excursion vessel facilities, and allowed for the direct negotiation of leases with excursion operators. The policy also directed Port staff to announce the availability of leases for basing and operating excursion vessels. This announcement was made, including extensive outreach to potential tenants, but only Hornblower expressed interest. Another outreach program pursuant to this policy was conducted in 1995 to excursion operators both currently operating from Port property and from other sites on the West Coast, and again only Hornblower responded with interest for such a Central Waterfront location.

Pier 3

Pier 3 was built in 1915, and it is now a Category II Pier, meaning that its substructure is significantly deteriorated. Because of the pier condition, much of its shed structure has been removed. It is now primarily used for berthing the *Ferryboat Santa Rosa* and for support facilities for the *Ferryboat Santa Rosa* and for Hornblower operations. It is also now used temporarily for general parking, but pursuant to the BCDC permit for Pier 3, this general parking must be eliminated upon completion of the Waterfront Transportation Project. Alternative uses for this pier are very limited because most changes of use would trigger seismic upgrade requirements, whose cost would be prohibitive due to the poor condition of the substructure. Excluding the bulkhead office buildings, the current monthly revenue is $14,700.62, comprised of $6,733.42

from leases (96% of which is from Hornblower and FSRP), and $7,970.20 from monthly parking. Hornblower and FSRP propose to lease all of Pier 3 except the bulkhead office buildings.

Pier ½

The Port's public ferry landing is currently located at Pier ½. The planned Downtown San Francisco Ferry Terminal, whose construction is currently scheduled to commence in 1998, will create two (North and South) public ferry landings. The North Landing will be located south of the existing Pier ½ landing, and the existing float and ramp at Pier ½ will be relocated to this North Landing. As a result, the existing finger pier and walkway at Pier ½ will no longer be needed as a public ferry landing site, and Hornblower proposes to lease these facilities and adjacent water space for berthing the 183' *California Hornblower* and for originating dining excursions. This use has been reviewed with the Port's Maritime Division and with the Pier ½ Advisory Committee (which is made up of the ferry operators using the public ferry landing), and they indicate that this use will not interfere with the operation of the new public landings.

PROPOSAL

By consolidating its facilities and operations at Piers ½ and 3, Hornblower will be able to better serve its customers and expand its business. This consolidation would also give it additional excursion berthing capacity, accommodating a greater number and variety of excursion vessels. It would also provide operational efficiencies from having all support facilities in proximity to its excursion berths, including catering facilities, storage, and administrative, ticketing and operations offices.

A fundamental component of this consolidation is berthing the *California Hornblower* at Pier ½, where it would be very visible and accessible from The Embarcadero and the Financial District, which would achieve important goals of Hornblower and the Port. A second fundamental component would be the provision of parking at Pier 3 to support this maritime activity, replacing the parking Hornblower currently has at Pier 31/33. A third fundamental component is the ability to combine maritime excursions from Pier 3 with the banquet and meeting facilities on the *Ferryboat Santa Rosa.* A final fundamental component is the creation of an exciting venue for the *America One* America's Cup challenge on Pier 3, which would depend upon the utilization of the *Ferryboat Santa Rosa* and the improvements to be made to the pier by Hornblower.

To achieve this consolidation, Hornblower has proposed that the Port grant Hornblower an Exclusive Right to Negotiate Agreement (Attachment A) commencing May 27, 1997 for a 126-day period to: (1) allow the parties to finalize all the terms and conditions of proposed leases with Hornblower for premises at Pier ½ and Pier 3; and (2) allow Hornblower to undergo California Environmental Quality Act (CEQA) review by the City Office of Environmental Review. Once CEQA approval is obtained, and the parties have successfully negotiated said lease agreements,

this transaction will be calendared for Port Commission consideration. The terms and conditions of the proposed new leases are summarized below, which will be incorporated as Exhibit 1 to the Attachment A agreement. The proposed revisions to the Santa Rosa lease and the proposed terms of a new interim lease at Pier 31/33 until Hornblower relocates to Pier ½ are also summarized below. The boundaries of the proposed premises at Pier ½ and Pier 3 are shown on Attachment B.

Leases for Piers ½ and 3

The proposed leases for Piers ½ and 3 constitute a single transaction, but would take the form of a separate lease for each facility because the terms and conditions regarding the two facilities differ somewhat, as outlined in the following table. Combining the transaction into one document would therefore be cumbersome and difficult to administer.

Leasing Parameter	Proposed Pier ½ Lease	Proposed Pier 3 Lease
Lease No.	L-12391	L-12175
Premises	Approximately 5,074 sf of open pier space and 66,471 sf of water area, plus a revokable license for 4,532 sf of open pier space. Tenant shall have exclusive possession of the finger pier portion of the open pier space, but possession of rest of the open pier space shall be non-exclusive and be available for public access.	Approximately 71,669 sf of open pier space, 11,044 sf of open shed space, and 98,695 sf of water area
Term Commencement Date	Term shall commence on the first day of the calendar month after all of the following have occurred: (1) Port relocates float and ramp from Premises; (2) issuance of BCDC permit; and (3) issuance of building permit. Lease terminable if Port does not remove float and ramp by 1/1/2000, or if conditions (2) and (3) not satisfied within 180 days of condition (1).	Term shall commence on the first day of the calendar month after both of the following have occurred: (1) issuance of BCDC permit; and (2) issuance of building permit. Lease terminable if conditions not satisfied by 2/1/1998.
Term Expiration Date	October 31, 2012 (same expiration date as for Santa Rosa Lease).	Same

Leasing Parameter	Proposed Pier ½ Lease	Proposed Pier 3 Lease
Base Rent	$17,089.00 (same as for existing License No. 11165 for Pier 31/33), with annual CPI increases.	$11,647.00 ($0.14 per sf based upon pier and shed area, which is the same as for existing uses on Premises), with annual CPI increases.
Percentage Rent	(1) 7% of gross receipts for boat rental, tickets, beverage, and food; and (2) 10% of all commissions on ticket sales for excursions not operated by Tenant and not originating from Premises.	(1) 6% of gross receipts for boat rental, tickets, beverage, and food; (2) 10% of all commissions on ticket sales for excursions not operated by Tenant and not originating from Premises; (3) 66% of parking receipts after parking taxes; and (4) 9% of retail merchandise sales.
Permitted Uses	(1) Passenger loading and unloading and berthing passenger vessels, limited to types of maritime excursion operations and common carrier ferry service and support facilities permitted by law as of the lease date; and (2) ticket office for operations of Tenant and subtenants of Tenant.	(1) Passenger loading and unloading and berthing passenger vessels, limited to types of maritime excursion operations and common carrier ferry service and support facilities permitted by law as of the lease date; (2) ticket office for operations of Tenant and subtenants of Tenant; (3) compound or compounds to be utilized by racing sail boats; (4) ceremonial berthing of sail boats and historic vessels; (5) catering uses; (6) maritime offices; (7) sale of retail merchandise directly related to maritime activities located on the Premises; (8) special events (subject to Port approval in each instance); and (9) parking to support maritime operations and activities.
Other Use Requirements	A minimum of one passenger vessel shall be home berthed at Premises which has a certified capacity of at least 1,000 passengers	A minimum of one passenger vessel shall be home berthed at Premises which has a certified capacity of at least 500 passengers. Tenant shall accommodate the reasonable space needs of at least one America's Cup challenge syndicate, and Tenant shall accommodate monthly parking Monday - Friday to extent it does not interfere with parking in support of maritime operations and activities.

Leasing Parameter	Proposed Pier ½ Lease	Proposed Pier 3 Lease
Maintenance and Repairs	Tenant responsible for all maintenance and repairs including pier substructure.	Tenant responsible for all maintenance and repairs except pier substructure. Neither party responsible for pier substructure, but either party may make pier substructure repairs.
Improvements and Alterations	Tenant accepts in "as is" condition, except Port to remove float and ramp. Tenant shall construct berthing improvements, and shall be granted a rent credit for 50% of the cost of berthing improvements. Said rent credit shall not exceed $500,000, and may be taken on a monthly basis against the portion of Percentage Rent in excess of 6% of gross receipts.	Tenant accepts in "as is" condition. By January 1, 2001, Tenant shall construct berthing improvements, and shall be granted a rent credit for 50% of the cost of berthing improvements. Said rent credit shall not exceed $500,000, and may be taken on a monthly basis against the portion of Percentage Rent in excess of 5% of gross receipts
Insurance	Tenant shall maintain Protection and Indemnity Insurance (Watercraft Liability) with a limit of not less than $5 Million.	Same.
Assignment and Subletting	Port shall be due 75% of any profits that Tenant receives from any subletting.	Same.
Parking on Pier 1	Subject to certain conditions and certain termination rights of the Port Tenant to have the non-exclusive right to use Pier 1 for customer parking during non-peak hours, administered either by Port parking concessionaire, or by Tenant under a licenses for specific dates whereby Port will receive fee equal to 66% of parking receipts after parking taxes.	Same.
Emergency Use	Tenant shall cooperate to make landing facilities available for common carrier service in the event of an emergency requiring use of Premises.	Same.
Port Right to Temporarily Relocate Tenant	Subject to certain conditions, if the Port undertakes the development of Pier ½, Pier 1 or the Ferry Building, the Port shall have the right to temporarily relocate Tenant to another pier north of Pier ½.	Not applicable.

Leasing Parameter	Proposed Pier ½ Lease	Proposed Pier 3 Lease
Port Right to Permanently Relocate Tenant	Subject to certain conditions, if the Port undertakes the development of Pier 1, the Port shall have the right to temporarily or permanently relocate Tenant to another pier north of Pier ½.	Not applicable.
Termination Rights of Port	(See Term Commencement Date above.)	Port to have right to terminate Lease, upon occurrence of any one of the following: (1) By January 1, 2001, Tenant fails to either construct berthing improvements, commence passenger loading and unloading passenger vessels at Premises, or home berth one 500 passenger vessel; or (2) Port Lease No. L-12391 for Pier ½ is terminated. (Also, see Term Commencement Date above.)
Termination of Tenancy at Pier 31/33	The parties acknowledge that the Port intends to terminate Tenant's tenancy at Pier 31/33 following the substantial completion by Tenant of berthing improvements at Premises.	Not applicable.
City Requirements	Comply with all city requirements, including Burma, non-discrimination and domestic partners ordinance.	Same

Santa Rosa Lease Amendment

Concurrent with this transaction, Port staff proposes to amend the Santa Rosa Lease to clarify and update some economic provisions and to update certain legal provisions. The proposed amendments to the economic provisions are as follows:

(1) Revise the boundaries of the Premises so that they coincide with the space actually used by FSRP and the boundaries of the proposed new lease with Hornblower for Pier 3, as shown on Attachment B.

(2) Revise the Percentage Rent so that it is calculated based upon 10% of sublease revenues for office and museum uses, and 6% of gross receipts from boat rental, tickets, beverages, and food. However, rental from office space used by Tenant or an affiliate involving maritime activities on Port property may be excluded from sublease revenues.

(3) Expand the permitted use of the Premises to consist of: (a) museum; (b) maritime offices and general office uses; (c) meeting room and banquet facilities, including sale of food and beverages; (d) catering uses; (e) passenger loading and unloading and berthing passenger vessels; and (f) sale of retail merchandise directly related to maritime activities located on Premises or adjacent pier.

(4) Add that failure to continue berthing the *Ferryboat Santa Rosa* on the Premises shall allow Port to terminate the Santa Rosa Lease.

Interim Lease for Pier 31/33

Port staff and Hornblower have negotiated an interim lease for the premises that Hornblower currently occupies at Pier 31/33 under License No. 11165, which will be dependent upon Hornblower and the Port entering into the proposed Leases Nos. L-12391 and L-12175 for Piers ½ and 3 during the negotiation period established in the Exclusive Right to Negotiate Agreement. The fundamental provisions of this new lease, as compared to the existing license would be as follows:

Leasing Parameter	Current License No. 11165	Proposed Lease
Document	License	Standard Port Lease
Term	Month-to-month	Five-years; provided however, Port shall have the right to terminate following substantial completion by Tenant of Berthing Improvements at Pier ½ Premises (pursuant to proposed Lease No. L-12391)
Base Rent	$17,689.20, with annual CPI adjustments	Same
Percentage Rent	7% of gross receipts from boat rental, tickets, beverages, and food; 75% of gross receipts from parking after parking taxes, less a $4,000 per month credit for operating expenses	6% of gross receipts for boat rental, tickets, beverages, and food; 66% of gross receipts from parking after parking taxes

Analysis

The Port will receive the following benefits from this proposed transaction:

(1) It converts from a month-to-month tenancy to a longer term lease commitment the maritime business which produces the 3rd highest revenue to the Port among its existing maritime businesses and which produces the 12th highest revenue among all businesses on Port

property. This longer term will enable Hornblower to amortize the costs to improve its facilities, and to secure financing to acquire new vessels.

(2) It consolidates and expands the operations and facilities of Hornblower so that it can operate more efficiently and can better serve its customers, which will enable Hornblower to expand its business, producing more revenue for the Port. Based upon the business plan prepared by Hornblower, the percentage rent generated by Hornblower and FSRP at the consolidated Pier ½ and Pier 3 facilities is projected to increase by $300,000 - 350,000 per year within three years after completion of its improvements, representing a 59 - 69% increase in revenues to the Port from Hornblower.

(3) It creates a compound for San Francisco's *America's One* America's Cup challenge.

(4) It protects the existing base rent from Pier 3. When the Waterfront Transportation Project is completed, the BCDC permit for Pier 3 requires that it no longer be used for general parking purposes, which currently constitutes 55% of the Port revenue from Pier 3. Based upon the condition of the pier, there are very limited uses available for this pier.

(5) The Pier ½ finger pier will be vacated when the Port relocates the public ferry landing to the Downtown San Francisco Ferry Terminal. The base rent currently being paid by Hornblower at Pier 31/33 will then be transferred to Pier ½, and this facility near Fisherman's Wharf would then be available to rent to a new user.

(6) The proposed uses conform with the general goals stated in the *Waterfront Plan* and with the specific uses proposed in this plan for Piers ½ and 3. Due to the poor condition of Pier 3, the proposed uses also represent the most intensive feasible use of this pier.

Prepared by: Kirk W. Bennett, Sr. Property Manager, Northern Waterfront/Fisherman's Wharf

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PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. 97-41

WHEREAS, Charter Section B3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, under Charter Section B3.581(g) leases granted or made by the Port Commission shall be administered exclusively by the operating forces of the Port Commission; and

WHEREAS, Hornblower Yachts, Inc. ("Hornblower") has proposed to lease premises at Piers ½ and 3 (collectively the "Site") for maritime excursion operations; and

WHEREAS, Port staff has negotiated substantially all of the terms and conditions of the proposed leases for the Site; and

WHEREAS, Hornblower has requested a 126-day exclusive right to negotiate the final terms and conditions of leases for the Site and to undergo the environmental review under the California Environmental Quality Act ("CEQA"), in the form indicated in Attachment A hereto; and

WHEREAS, Hornblower is a distinctive maritime operation with unique leasing needs, and it is therefore impractical and unfeasible to bid these leases; and

WHEREAS, the Port Commission has determined that, based upon Port Resolutions 80-95 and 92-112 and the facts set forth in the Memorandum of Agenda Item 5C for the May 27, 1997 Port Commission meeting, said exclusive right to negotiate with Hornblower is appropriate; and

WHEREAS, the Port Commission will not enter into a binding commitment for or approve a lease for the site without first reviewing and considering the environmental review document prepared by the City's Office of Environmental Review; now therefore, be it

RESOLVED, that the Port Commission hereby approves an Exclusive Right to Negotiate Agreement between the Port and Hornblower for the Site as indicated in

Attachment A hereto, incorporating as Exhibit 1 the business terms outlined in the Memorandum of Agenda Item 5C for the May 27, 1997 Port Commission meeting, and the Port Commission authorizes the Executive Director of the Port, or his designee, to execute said Exclusive Right to Negotiate Agreement.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 27, 1997.

_____
Secretary

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EXCLUSIVE RIGHT TO NEGOTIATE

THIS EXCLUSIVE RIGHT TO NEGOTIATE ("Exclusive Right") is entered into as of this ____ day of May 1997, by and between the **City and County of San Francisco** ("City"), acting by and through its **Port Commission** ("Port"), and **Hornblower Yachts, Inc.**, a California corporation (referred to hereinafter as "Hornblower") upon the following facts, intentions and understandings of the parties:

A. Hornblower desires to obtain an exclusive right to negotiate leases for a maritime excursion operation at Piers ½ and 3, located in the City and County of San Francisco (collectively, the "Site"), under the general terms agreed upon by Port and Hornblower herein and subject to all required permits and approvals being obtained by Hornblower.

B. Pursuant to Port Commission Leasing Policy adopted August 22, 1979, and subsequently amended by Resolution 80-95 on September 10, 1980, subsection 10, the Port may enter into negotiations with a tenant without competitive bid when competitive bid is impractical or impossible and the property is proposed to be used for maritime purposes.

C. Pursuant to Port Commission Policy for Accommodating Additional Excursion Boats adopted October 28, 1992 by Resolution No. 92-112, direct negotiation of excursion vessel leases for Piers 3 and 9 is authorized after a solicitation.

D. Because the nature of the proposed project is maritime in nature and because competitive bid of this type of proposal would be impractical, competitive bid of this Exclusive Right is not required under Port policy or under the San Francisco Charter or Administrative Code Section 2.6-1.

E. Because Hornblower is the second highest volume excursion operator at the Port of San Francisco, and Hornblower was the only excursion operator who expressed interest in a site on the Central Waterfront for operating maritime excursions in response to two solicitations.

F. The parties now desire to enter into this Exclusive Right to set forth the terms and conditions upon which Port and Hornblower will enter into lease negotiations and seek to complete written lease documents for Port Commission approval.

ATTACHMENT A

NOW, THEREFORE, the parties hereto agree as follows:

1. **Term**. The term of this Exclusive Right shall commence on May 27, 1997, and shall expire on September 30, 1997, unless extended in accordance with Section 3 below. The term of this Exclusive Right, including any extensions, is hereinafter referred to as the "Exclusive Negotiation Period." During the Exclusive Negotiation Period, the Port will not solicit or consider any other proposals or negotiate with any other developer with respect to the development of the Site.

2. **Negotiating Fee**. Upon execution of this Exclusive Right, Hornblower shall pay to Port a lump sums by cash, check or money order in the amount of Five Thousand and No/100 Dollars ($5,000.00) as a non-refundable fee for the right to negotiate exclusively with the Port during the Exclusive Negotiation Period; provided, however, the Port shall credit said negotiating fee against rent due from Hornblower in the event the Port approves leases for the Site before the expiration of the Exclusive Negotiation Period, or Option Periods.

3. **Extension of Negotiating Period**.

a. Option Period. Hornblower shall have two (2) two-month options (each an "Option Period") to extend the Exclusive Negotiation Period, commencing on October 1, 1997. Hornblower shall exercise each option to extend by written notice of the exercise of such option delivered with cash, check or money order payment of One Thousand Dollars ($1,000.00) per Option Period (each an "Option Payment") to Port at the address for notice set forth in Paragraph 10 below, not less than ten (10) days prior to the commencement of the next Option Period. In the event that the parties have been unable to execute leases prior to the expiration of the original term of this Exclusive Right (or the preceding Option Period, if applicable) due solely to the failure of the San Francisco Department of City Planning Office of Environmental Review ("OER") to complete its environmental evaluation in time for execution of a lease on or before September 30, 1997, Port shall waive its rights to the appropriate Option Payment. This waiver shall not apply if Hornblower creates a delay by its failure to comply with requests for information or other OER requirements.

b. Option Payment Non-Refundable. Each Option Payment shall be non-refundable; provided, however, that the Port shall credit any Option Payment against rent due by Hornblower in the event that Hornblower delivers an Option Payment for a subsequent Option Period and the Port Commission approves leases for the Site with Hornblower before the commencement of that subsequent Option Period. Hornblower's failure to exercise any Option Period in accordance with this Section 3, at Port's sole option, shall extinguish all future Option Periods and shall

terminate this Exclusive Right as of the last date of the Term or the applicable Option Period.

4. **Negotiation of Lease**. During the Exclusive Negotiation Period, Port and Hornblower shall seek to complete leases for the Site which will be subject to Port Commission approval. Both parties hereto agree to negotiate the terms of such leases in good faith.

The leases shall be in substantial conformity with the terms set forth in Exhibit 1 attached hereto which have been agreed upon by the parties; provided, however, such terms are subject to change by mutual agreement of the parties. The parties acknowledge that the terms of Exhibit 1 merely purport to set forth general principles upon which the parties have agreed; any binding leases shall be subject to review and approval by the parties, their respective legal counsel, and the San Francisco Port Commission.

The parties further acknowledge that certain regulatory approvals are required for the use of the Site (collectively "Regulatory Approvals"), including, but not limited to, all necessary approvals from BCDC and environmental review by OER pursuant to the California Environmental Quality Act. Environmental review by OER shall be completed prior to the approval of any lease for the Site by the Port. The effectiveness of any such lease shall be conditioned upon Hornblower obtaining all other Regulatory Approvals subsequent to the Port Commission's approval of any such lease.

5. **Regulatory Approvals, Submittals, and Disclosures**.

a. Hornblower's Obligations. Except as provided in subsection 5.b below, Hornblower agrees:

(i) It shall diligently and in good faith pursue all Regulatory Approvals;

(ii) It shall be solely responsible for obtaining all Regulatory Approvals, and Hornblower shall not seek any Regulatory Approval without first obtaining the approval of Port;

(iii) It shall bear all costs associated with or complying with any necessary, Regulatory Approval except those costs incurred by the Port in complying with subsection 5.b, below;

(iv) It will pay and discharge any fines or penalties imposed as a result of the failure of Hornblower to comply with the terms and conditions of any Regulatory Approval, and Port shall have no liability, monetary or otherwise, for said fines and penalties.

(v) To the fullest extent permitted by law, Hornblower agrees to indemnify and hold City, Port and their officers, agents and employees harmless from and against any loss, expense, cost, damage, attorneys' fees, penalties, claims or liabilities which City or Port may incur as a result of Hornblower's failure to obtain or comply with the terms and conditions of any Regulatory Approval.

b. Port's Obligations. Port agrees that it will cooperate with Hornblower in filing for, processing and obtaining all Regulatory Approvals, and to the extent required by any regulatory agency issuing a Regulatory Approval, it will join with Hornblower as co-applicant in filing, processing and obtaining all Regulatory Approvals necessary for the permitted uses specified in Exhibit 1 attached hereto. Nothing contained herein shall be deemed to limit or otherwise constrain Port's discretion, powers and duties as a regulatory agency of the City with certain police powers.

c. Submittal of Information. Hornblower agrees to submit to Port, OER, BCDC and any other regulatory agency having approval over the project, all specifications, descriptive information, studies, reports, disclosures and any other information required to satisfy the application filing requirements of those agencies.

6. **Non-Assignment**. The parties acknowledge that Port is entering into this Exclusive Right on the basis of the special skills, capabilities and experience of Hornblower. This Exclusive Right is personal to Hornblower is non-assignable. Any attempted assignment of this Exclusive Right shall be considered an event of default under this Exclusive Right and shall immediately and without opportunity to cure give rise to Port's remedies provided in Section 7 hereof.

7. **Default**.

a. Event of Default. The occurrence of any of the following shall constitute a default by Hornblower after notice of the default and the expiration of the applicable cure period, if any:

(i) Failure to pay any sums due hereunder when due.

(ii) Failure to perform or abide by any other provision of this Exclusive Right if such failure is not cured within twenty (20) days after notice

has been given to Hornblower. If the default cannot reasonably be cured within 20 days, Hornblower shall not be in default of this Exclusive Right if Hornblower commences to cure the default within the 20-day period and diligently and in good faith continues to cure the default.

(iii) Either (a) the filing by Hornblower of a petition to have Hornblower adjudicated insolvent and unable to pay its debts as they mature or a petition for reorganization or arrangement under any bankruptcy or insolvency law, or a general assignment by Hornblower for the benefit of creditors; or (b) the filing by or against Hornblower of any action seeking reorganization, arrangement, liquidation, or other relief under any law relating to bankruptcy, insolvency, or reorganization or seeking appointment of a trustee, receiver, or liquidator of Hornblower or of any substantial part of Hornblower's assets.

b. Port's Remedies. In the event of default, Port, at its option, may terminate this Exclusive Right upon written notice to Hornblower, sent in accordance with Section 10 below. This remedy is not exclusive, but shall be cumulative with any remedies now or later allowed by law.

8. **Attorneys Fees** In the event of any action or proceedings at law or in equity between the Port and Hornblower to enforce any provision of this offer to protect or establish any right or remedy of either party to this agreement, the unsuccessful party to such litigation shall pay to the prevailing party all costs and expenses as determined by the court, including reasonable attorneys' fees, incurred therein by such prevailing party; and if such prevailing party shall recover judgment in any such action or proceeding, such costs, expenses and attorney's fees shall be included in and as a part of such judgment. For purposes of this Exclusive Right, reasonable fees of attorneys of the Office of City Attorney shall be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience (calculated by reference to earliest year of admission to the Bar of any State) who practice in the City in law firms with approximately the same number of attorneys as employed by the Office of City Attorney.

9. **Notices**. Any notice given under this Exclusive Right shall be in writing and given by delivering the notice in person, by commercial courier or by sending it by registered or certified mail, or Express Mail, return receipt requested, with postage prepaid, to the mailing address listed below or any other address notice of which is given. For the convenience of the parties, copies of notices may also be given by telefacsimile, to the telephone number listed below or such other numbers as may be provided from time to time.

Port:	**Commercial Property Manager** **Port of San Francisco** **Room 3100, Ferry Building** **San Francisco, CA 94111** **Facsimile: (415) 274-0578** **Telephone: (415) 274-0510**
Hornblower:	**Hornblower Yachts, Inc.** **Pier 3, Ferry Boat Santa Rosa** **San Francisco, CA 94111** **Facsimile: (415) 394-8444** **Telephone: (415) 394-8900**

In the event that Hornblower must be legally served, Hornblower's agent for service is John Domingos, Esq., 351 California Street, Suite 600, San Francisco, CA 94104.

Any mailing address or facsimile number may be changed at any time by giving written notice of such change in the manner provided above at least ten (10) days prior to the effective date of the change. All notices under this Exclusive Right shall be deemed given, received, made or communicated on the date personal receipt actually occurs or, if mailed, on the delivery date or attempted delivery date shown on the return receipt. A person may not give official or binding notice by facsimile. The effective time of a notice shall not be affected by the receipt, original, of a facsimile copy of the notice.

10. **City Requirements**

a. Non-Discrimination. Hornblower shall not, in carrying out its obligations hereunder, discriminate against any person or group of persons solely because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, disability or acquired immune deficiency syndrome (AIDS) or AIDS related condition (ARC). The provisions of Chapters 12B and 12C of the San Francisco Administrative Code, relating to nondiscrimination by parties contracting with the

City and County of San Francisco, are incorporated herein by this reference and made a part hereof as though fully set forth herein. Hornblower agrees to comply with all provisions of such Chapters 12B and 12C that apply to tenants and licensees of the City and County of San Francisco.

b. MacBride Principles-Northern Ireland. City urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages such companies to abide by the MacBride Principles. City urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

c. Tropical Hardwood Ban. City urges Hornblower not to import, purchase, obtain, or use for any purpose, any tropical hardwood or tropical hardwood product.

11. **Captions Used**. Captions or titles utilized in the terms and conditions of this Exclusive Right are used for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

12. **Time is of the Essence**. Time is of the essence of each provision of this Exclusive Right.

WHEREFORE, this Exclusive Right to Negotiate was executed by the parties hereto on the last date set forth hereinbelow.

"Port"
CITY AND COUNTY OF SAN FRANCISCO
acting by and through its
Port Commission

By: V. Fei Tsen
Director, Real Estate & Asset Management

Dated:_____

"Hornblower"
HORNBLOWER YACHTS, INC.,
a California corporation

By: Terry MacRae
Its President

Dated:_____

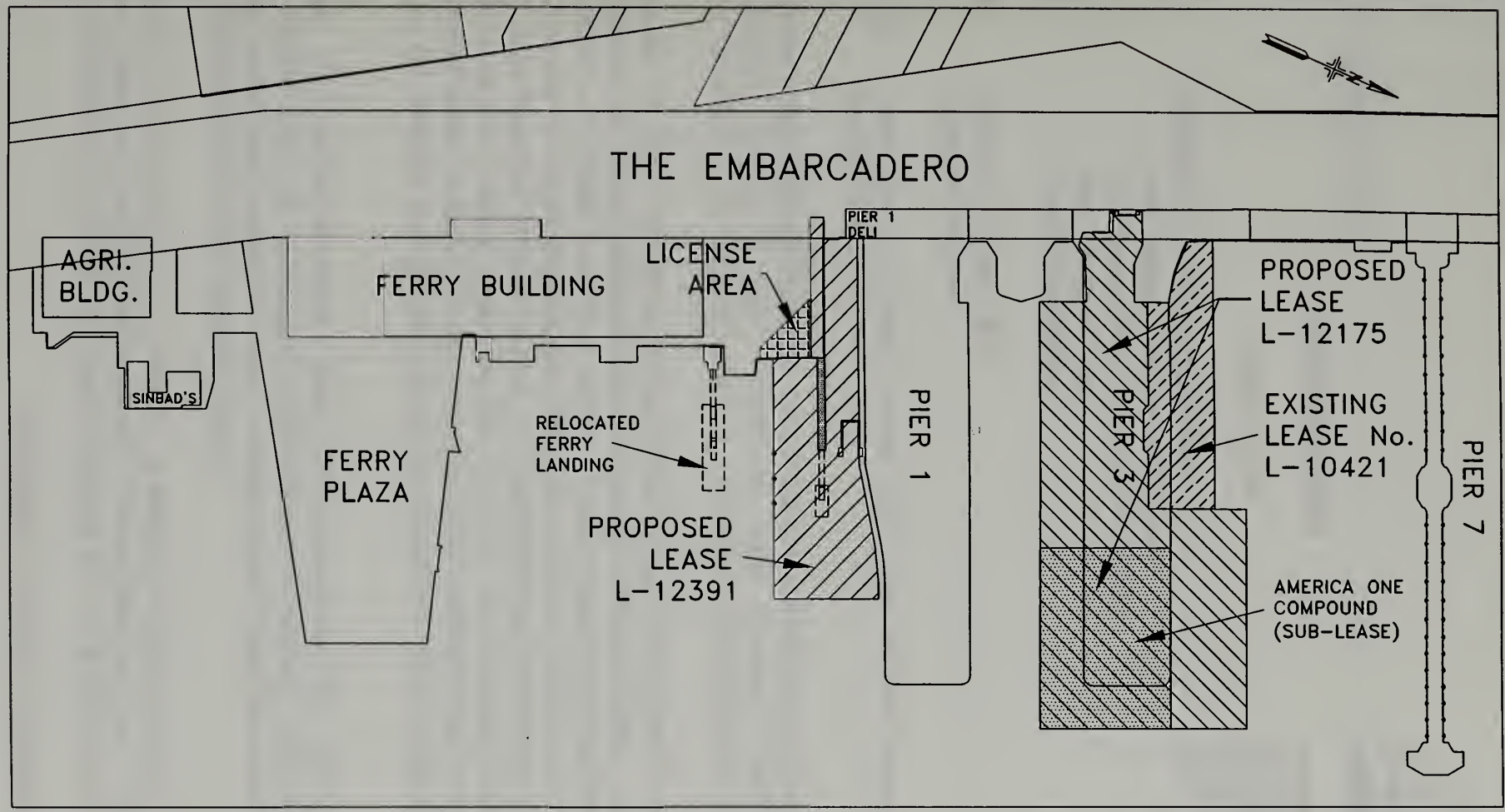
Approved as to Form:
LOUISE H. RENNE
City Attorney

By:_____
Deputy City Attorney

Dated:_____

G:\WP51\LEASES.ORG\HORNBLOW.EXC\KB\May 19, 1997

ATTACHMENT B



LOCATION PLAN

	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO	TENANT: PIER 1/2 – PIER 3 HORNBLOWER YACHTS, INC. FERRYBOAT SANTA ROSA PARTNERS, LTD.	DRAWN BY: G. DUDLEY — DATE: APRIL 17, 1997 CHECKED BY: — SCALE: PLACE CODE NO. 1030-0-0000 — SHEET NO. OF SHEETS

Lease Exhibit Title Block: L11X17L

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM

May 21, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie G. Lee
Hon. James Herman

FROM: Douglas F. Wong
Executive Director

SUBJECT: Authorization to award Contract 2636, "Pier 48 Fire Damage Repair & Reconstruction"

DIRECTOR'S RECOMMENDATION: THAT THE COMMISSION AUTHORIZE STAFF TO AWARD CONTACT 2636, "PIER 48 FIRE DAMAGE REPAIR AND RECONSTRUCTION," IN ACCORDANCE WITH THE ATTACHED RESOLUTION

On November 26, 1996, a fire at the east end of Pier 48 destroyed the interconnecting wood frame structure and caused substantial structural damage to the steel frames, walls and roof at the easterly end of Sheds A and B on the pier. The fire caused significant deformation of steel trusses and caused pre-cast concrete wall panels that make up the exterior walls of the sheds to move from their original position. An emergency was declared and subsequently approved by the Port Commission on December 13, 1996. This emergency authorized staff to take several actions including hiring a consultant on an emergency basis develop a repair design for the building shell and to advertise for competitive bids for construction of the repairs.

In January, 1997, the Port advertised Contract 2636 for competitive bids. This contract will address only the repair and reconstruction of the shells of the buildings. The interior repairs including new fire walls, coiling fire doors, a sprinkler system, light fixtures and a fire alarm system will be provided under a separate contract.

On March 21, 1997, four (4) bids were received. A Summary of Bids is attached. The lowest responsive bidder was West Bay Builders, Inc./D. Stewart Thompson, Inc., a Joint Venture, with a low base bid of $2,529,768. D. Stewart Thompson, Inc. is a WBE firm with 51% of the

THIS PRINT COVERS CALENDAR ITEM **6A**

work. Staff has reviewed the bid documents and the Human Rights Commission has reviewed and agreed that the subcontracting goals of 20% MBE and 5% WBE have been met. The contractor has 24% and 12% respectively.

Staff recommends that the Commission authorize the award of the base bid and Additive Alternative No. A-1 of Contract 2622 to West Bay Builders, Inc./D. Stewart Thompson, Inc., a Joint Venture, for a total contract amount of $2,599,768. Additive Alternative No. A-1 for $70,000 is for Types A and B coiling doors and grilles along column line 63. It is also recommended that the Commission authorize a 10% contingency for possible Type I contract modifications and that the Executive Director be authorized to accept the work after it is complete. Insurance monies will fund the cost of this contract.

Prepared by : Cliff Jarrard, Chief Harbor Engineer

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. **97-29**

WHEREAS, on November 26, 1996, a fire at the east end of Pier 48 destroyed the interconnecting wood frame structure and caused substantial damage to the steel frames, walls and roof at the easterly end of Sheds A and B on the pier; and

WHEREAS, through an emergency declaration with subsequent Commission approval on December 13, 1996 staff was authorized to advertise for competitive bids for Contract 2636; and

WHEREAS, on March 21, 1997, four (4) bids were received; and

WHEREAS, staff has reviewed the bid documents and determined that the lowest responsive bidder is West Bay Builders, Inc./ D. Stewart Thompson, Inc., a Joint Venture; and

WHEREAS, the Human Rights Commission has reviewed the bids and determined that this contractor has met the MBE/WBE subcontracting goals and that the contractor qualifies for the bid preference; and

WHEREAS, insurance monies will fund the cost of this work, now therefore be it

RESOLVED, that the San Francisco Port Commission hereby authorizes the award of Contract 2636, "Pier 48 Fire Damage Repair & Reconstruction," to West Bay Builders, Inc./D. Stewart Thompson, Inc., a Joint Venture to include the base bid and Additive Alternative No. A-1 at a cost of $2,599,768, and authorizes a 10% contingency for possible Type 1 contract modifications; and be it further

RESOLVED, that the San Francisco Port Commission authorizes the Executive Director to accept the work after it is complete.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 27, 1997.

_____
Secretary

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BID SUMMARY
PORT OF SAN FRANCISCO

Prepared By: Hoy Kwok
Checked By: Rob Lim
Date March 21, 1997

Bids Opened: March 19, 1997

Project: Pier 48 Fire Damage Repair & Reconstruction
Contract No.: 2636
Project Manager: Ed Byrne

Div Item #	Bid Item #	Description	Estimated Quantity	West Bay Builders Inc./ D. Stewart Thompson Inc., JV 3605 Buchanan Street S F., CA 94123 (415) 456-8972 L. S. Price=	Total	D.J.Amoroso Construction CO., Inc./ Trico Construction, JV 70 Gold Street S.F., CA 94133 (415)288-8767 L.S. Price=	Total	S J. Amoroso Construction CO., Inc / Marinship Construction, JV 41 Dorman Avenue, Suite 3 S.F., CA 94124 (415)282-5160 L.S. Price=	Total	Barnes/LTM , JV 449 10 th Street S.F., CA 94103 (415)552-7070 L.S. Price=	Total
8	8-5	Door hardware.	Lump Sum		$5,000		$1,600		$1,500		$17,000
	8-6	ALLOWANCE to repair, lubricate, paint, and recondition 12 existing overhead coiling metal doors, between column lines 37.5 and 49.5.	Lump Sum		$30,000		$30,000		$30,000		$30,000
	8-7	Steel windows at the Shed C roof monitor between column lines D.1 and D.2, including structural steel required for window framing.			$10,000		$7,000		$43,000		$2,000
9	9-1	Portland cement plaster for the exterior walls.	Lump Sum		$30,000		$92,000		$79,040		$101,000
	9-2	Gypsum board for the interior walls.	Lump Sum		$120,000		$30,000		$12,160		$44,000
Additive Bid Item	9-3	All painting and coating required for the exterior walls.	Lump Sum		$50,000		$55,000		$47,000		$45,000
Additive Bid Item	9-4	All painting and coating required for the interior of the building.	Lump Sum		$260,000		$90,000		$175,000		$167,000
15	15-1	Roof drain and overflow drain assemblies including all associated roof and overflow drain piping, fasteners, clamps, scuppers, core drilling, grouting, complete and in place.	Lump Sum		$15,000		$54,000		$51,000		$54,233
		THIS ROW IS NOT USED									
	X-1	North and South Shed C walls (on column lines D and E between column lines 49 5 to 63), including coiling doors.	Lump Sum		$67,000		$58,000		$149,250		$99,000
	X-2	Infill walls at proposed door openings along column line 63.	Lump Sum		$31,000		$20,000		$18,125		$19,000
	X-3	ALLOWANCE to perform environmental consulting work.	Lump Sum		$25,768		$25,768		$25,768		$25,768
Additive Bid Item	A-1	Types A and B coiling doors and grilles along column line 63.	Lump Sum		See note 1						
Additive Bid Item	A-2	Type D coiling doors and grilles along column line 63.	Lump Sum		$70,000		$13,100		$15,000		$17,000
			Lump Sum		$70,000		$13,300		$0		$26,000
		BASE BID TOTAL			**$2,529,768**		**$2,698,093**		**$2,768,001**		**$2,887,000**
		BASE BID TOTAL+ ADDITIVE BID ITEM A-1			see note 2 **$2,599,768**		see note 3 **$2,711,193**		**$2,783,001**		**$2,904,000**

Note 1: The X-3 price from the contractor ($26,000) has been adjusted to the Port allowance price.

Note 2: The contractor added the total base bid incorrectly ($2,520,000).The summary sheet has adjusted the incorrect amount.

Note 3: The bid is not responsive, See page 3.

BID SUMMARY
PORT OF SAN FRANCISCO

Prepared By: Hoy Kwok
Checked By: Rob Lim
Date: March 21, 1997

Bids Opened: March 19, 1997

Project: Pier 48 Fire Damage Repair & Reconstruction
Contract No.: 2636
Project Manager: Ed Byrne

		West Bay Builders Inc./D.Stewart Thompson Inc., JV 3605 Buchanan Street S.F., CA 94123 (415) 456-8972		D.J.Amoroso /Trico Construction., JV 70 Gold Street S.F., CA 94133 (415)288-8767		S.J. Amoroso & Marinship Construction, JV 41 Dorman Avenue, Suite 3 S.F., CA 94124 (415)282-5160		Barnes/LTM., JV 449 10 th Street S.F., CA 94103 (415)552-7070	
Required Forms	Document #	Yes (Y)	No (N)	Yes (Y)	No (N)	Yes (Y)	No (N)	Yes (Y)	No (N)
Bid	00300	Y		Y		Y		Y	
Addenda Acknowledgement		Y		Y		Y		Y	
Schedule of Bid Prices	00302	Y		Y		Y		Y	
Schedule of Unit Prices	00304	N/A		N/A		N/A		N/A	
Bid Bond	00411	Y		Y		Y		Y	
Experience & Financial Qualifications	00420	Y		Y		Y		Y	
List of Subcontractors	00430	Y		Y		Y		Y	
Non-Collusion Certification	00481	Y		Y		Y		Y	
HRC Form 1		Y		Y		Y		Y	
HRC Schedule A (as applic, by 5pm)		N/A		N/A		N/A		N/A	
HRC Schedule L (as applic, by 5pm)		N/A		N/A		N/A		N/A	
HRC Form 2A		Y		Y		Y		Y	
HRC Form 2B		Y		Y			N	Y	
Apprenticeship Program	00490	Y		Y		Y		Y	
Business Tax Reg Declaration	00491	Y		Y		Y		Y	
Highest General Prevailing Wage	00492	Y		Y		Y		Y	
Equal Opp Empl & Bus Practices: LD	00493	Y		Y		Y		Y	
MacBride Principles	00494	Y		Y		Y		Y	
Deemed Responsive by Engin & HRC (Y/N) ?		Y			N	Y		Y	
Total Bid ►		$2,599,768		$2,711,193		$2,783,001		$2,904,000	
PREFERENCES (as applicable):									
MBE	10%								
WBE	10%								
LBE	5%								
JV	5%								
JV	7.5%								
JV	10%	($259,977)		($271,119)		($278,300)		($290,400)	
Adjusted Bid ►		$2,339,791		$2,440,074		$2,504,701		$2,613,600	

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PORT OF SAN FRANCISCO

Ferry Building
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Writer

MEMORANDUM

May 21, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie G. Lee
Hon. James Herman

FROM: Douglas F. Wong
Executive Director

SUBJECT: Authorization to advertise for competitive bids for construction contracts for new maintenance facility and other facilit3y improvements at Pier 50

DIRECTOR'S RECOMMENDATION: THAT THE COMMISSION AUTHORIZE STAFF TO ADVERTISE FOR CONSTRUCTION CONTRACTS RELATED TO THE MAINTENANCE FACILITY RELOCATION TO PIER 50 IN ACCORDANCE WITH THE ATTACHED RESOLUTION

The Maintenance staff and Port tenants are scheduled to move completely out of Pier 46B into Pier 50 by August 1, 1997. Port staff and an outside consultant have developed the designs for the improvement construction on Pier 50. In order to meet the schedule for the move, it is necessary to begin certain construction work as soon as possible. It is proposed that the improvement work include electrical lighting; a fire alarm system; security system; a heating system with sheet metal ducts; fire water supply; potable water supply; fire sprinkler system; sanitary sewers; interior walls; roofs; elevator; a wash area containment, separator and sewer line; and a parking shelter. It may be more efficient to perform this proposed construction under more than one contract. Staff requests authorization to advertise for one or more contracts to perform the construction improvements at Pier 50.

Prepared by Cliff Jarrard, Chief Harbor Engineer

THIS PRINT COVERS CALENDAR ITEM NO. **6B**

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. **97-44**

WHEREAS, the Port Maintenance staff and tenants are scheduled to move completely out of Pier 46B into Pier 50 by August 1, 1997; and

WHEREAS, in order to meet the schedule for the move, it is necessary to begin certain construction work as soon as possible; and

WHEREAS, it may be more cost efficient to perform this proposed construction under more than one contract; now therefore be it

RESOLVED, that the San Francisco Port Commission hereby authorizes staff to advertise one or more contracts to perform the construction improvements to Pier 50, at a total estimated cost of from $6,000,000 to $7,000,000.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 27, 1997.

_____
Secretary

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM

May 21, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie G. Lee
Hon. James Herman

FROM: Douglas F. Wong
Executive Director

SUBJECT: First Amendment to the Professional Services Contract for the "New Maintenance Facility"

DIRECTOR'S RECOMMENDATION: APPROVAL OF FIRST AMENDMENT, AUTHORIZING ADDITIONAL SERVICES UNDER PROFESSIONAL SERVICES CONTRACT NO. SA39760016, "NEW MAINTENANCE FACILITY," WITH KENDALL YOUNG ASSOCIATES/BEVERLY PRIOR ARCHITECTS ("KYA/BPA"), A JOINT VENTURE

The Commission previously awarded a contract to KYA/BPA for the design of the New Maintenance Facility ("NMF") at Pier 48. Because the NMF will be located at Pier 50 instead of Pier 48, it is necessary to amend KYA/BPA's scope of services. Although much of KYA/BPA's work to date in designing shops and storage facilities will be used for the Pier 50 facility design, the change in location of the NMF does necessitate two changes in the scope of work.

KYA/BPA's contract will be amended to redirect their original design services related to the NMF to Pier 50 instead of Pier 48. There is no cost impact for this change since the remaining contract balance of $235,118 will be used to fund this work. This work includes shop design and layout, mechanical and electrical design, construction documents preparation, and construction support services.

KYA/BPA's contract will also be amended to include limited additional services for the design of interior repairs to the fire damaged areas at Pier 48. The cost of the additional services is $72,644. The interior repairs will include new firewalls, new coiling fire doors, a sprinkler system, light fixtures, and a fire alarm system. KYA/BPA will prepare the necessary construction and bid documents for the Port to solicit bids to accomplish this work. These additional services will be paid for by the fire insurance company.

Prepared by: Cliff Jarrard, Chief Harbor Engineer

THIS PRINT COVERS CALENDAR ITEM NO. 6C

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-36

WHEREAS, the Commission previously awarded a contract to Kendall Young Associates/Beverly Prior Architects ("KYA/BPA"), A Joint Venture, for the design of the New Maintenance Facility ("NMF") at Pier 48; and

WHEREAS, the NMF will be located at Pier 50 instead of Pier 48; and

WHEREAS, although much of KYA/BPA's work to date in designing shops and storage facilities will be used for the Pier 50 facility design, the change in location of the NMF does necessitate two changes in the scope of work; and KYA/BPA's contract will be amended to redirect their original services related to the NMF to Pier 50 instead of Pier 48; and there is no cost impact for this change since the remaining contract balance of $235,118 will be used to fund this work; and

WHEREAS, this work includes shop design and layout, mechanical and electrical design, construction documents preparation, and construction support services; and

WHEREAS, KYA/BPA's contract will also be amended to include limited additional services for the design of interior repairs to the fire damaged areas at Pier 48; and

WHEREAS, the cost of the additional services is $72,644; and

WHEREAS, the interior repairs will include new firewalls, new coiling fire doors, a sprinkler system, light fixtures, and a fire alarm system; and KYA/BPA will prepare the necessary construction and bid documents for the Port to solicit bids to accomplish this work; and these additional design services will be paid for by the fire insurance company; therefore, be it

RESOLVED, the San Francisco Port Commission hereby approves the First Amendment to the KYA/BPA Professional Services Contract No. 39760016, "New Maintenance Facility," for redirecting NMF services to Pier 50 instead of Pier 48 and for additional services for $72,644.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 27, 1997.

_____
Secretary

SAN FRANCISCO
PORT COMMISSION

MAY 27, 1997
MINUTES OF THE REGULAR MEETING

MEMBERS, PORT COMMISSION

HON. MICHAEL HARDEMAN, PRESIDENT
HON. DENISE McCARTHY, VICE PRESIDENT
HON. FRANKIE G. LEE
HON. JAMES HERMAN

DOUGLAS F. WONG, EXECUTIVE DIRECTOR

CITY AND COUNTY OF SAN FRANCISCO
PORT COMMISSION

MINUTES OF THE REGULAR MEETING
MAY 27, 1997

1. ROLL CALL

The meeting was called to order by Commission President Michael Hardeman at 4:16 p.m. The following Commissioners were present: Michael Hardeman, Denise McCarthy and Frankie Lee. Commissioner James Herman was not present.

2. APPROVAL OF MINUTES - May 5, 1997 Special Meeting
- May 13, 1997 Regular Meeting

ACTION: Commissioner McCarthy moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor. The minutes of the meetings were adopted.

3. EXECUTIVE

A. Executive Director's Report:

1) Passenger Services Act - Since the last Commission meeting when staff made a presentation on cruise marketing efforts, legislation was officially introduced this past Friday in the United States Senate to change the Passenger Services Act. Senate Bill 803 was introduced by Senators Thurmond (South Carolina) and Murkowski (Alaska) and contains the provisions that were presented by staff. Along with other California ports and travel industry, staff is still working with Senator Feinstein & Boxer's office to get them to co-sponsor the bill.

2) Crystal Symphony: The Crystal Symphony will complete its 10-day maintenance job tomorrow. The ship has been worked on round the clock. The 400 workers on the job and the materials purchased (in excess of $1 million) show the dramatic impact that maritime industries stimulate our local economy. Even the taxi industry has benefited from Crystal's drydocking because cabs are lined up outside the gates of Pier 70 waiting to take the crew into our tourist areas.

Mr. Carl Hanson, General Manager, proudly reports that the Crystal Symphony will be completed on time! It is scheduled to sail out of the drydock from Pier 70 to Pier 35 tomorrow at 6:00 p.m. Cruise ships sailing under the Bay Bridge is an incredible sight and invited the Commissioners to come out to the waterfront to see it.

He complimented the management and metal trade workers at San Francisco

Drydock who worked extremely hard to meet the tight schedule for the Crystal Symphony. San Francisco Drydock is breaking new ground in establishing itself as a premier yard for maintenance and refurbishment of cruise ships. This is so important for the hundreds of ship yard workers in the area who have disproportionately felt the impact of base closures. The Port is very proud of San Francisco Drydock!

On Thursday, May 29, after a luncheon with the Mayor, Port Commissioners and other dignitaries, the Crystal Symphony will begin its season of six Alaska cruises.

3) 14th Annual Whaleboat Race, held on May 14, was extremely successful. The Port of San Francisco finished third in the co-ed division. The event attracted hundreds of spectators. He thanked the Navy band for their participation.

4) Terri Nwogu, Port employee, had a 9.5 lb. baby boy on Friday, May 23. Both mom and baby are doing well.

5) Todd Petersen, Senior Storekeeper at Pier 46B, passed away on Friday, May 23, 1997. Memorial service will be held on June 3 at Zion Lutheran Church in Piedmont at 7:00 p.m.

4. MARITIME

A. Approval of lease with Westar Marine Services Company for a portion of Pier 50, Shed C. (Resolution No. 97-40)

Mr. Peter Dailey, Acting Maritime Manager, indicated that since 1976 Westar Marine Services has been providing tug, barge, water taxi and other harbor services to the Northern California maritime community from their Port location at Pier 46B. Westar, a woman-owned business enterprise, has a staff of 32 people and a fleet of six tugs, four water taxis and numerous barges. They currently lease from the Port approximately 8,000 sq.ft. of shed space and berthing space at Pier 46B and additional berth at Pier 48. They currently pay $.16 per sq.ft., which is below the minimum leasing parameters for that location. Due to their growing business and the need to relocate for the proposed ballpark, they require a larger facility for which Port staff has negotiated a lease where Westar will relocate and consolidate their operations to a portion of Pier 50, Shed C, as well as the north apron. Rent levels in the first two years of this lease, while significantly higher than Westar's current license with the Port, will be less than the minimum provided by the leasing parameters pre-approved by the Port. However, beginning in the third year through the remaining eight years of the lease, Westar's rent will meet the leasing parameters pre-approved by the Port Commission.

This proposed lease covers nearly 21,000 sq.ft. of shed space inside Shed C at Pier 50 for office storage and maintenance uses directly related to the operation of Westar's marine service operations and 1,300 linear ft./42,000 sq.ft. of apron and water space

on the north side of Pier 50 for berthing of Westar's vessels. For the shed space, Westar will pay: $.20 per sq. ft. in year one; $.25 per sq.ft. in year two; $.30 per sq.ft. in years 3-10. These base rents will also be subject to annual CPI Base Rent adjustments.

The fendering system at Pier 50 is in serious disrepair. The Port will replace the existing fendering system located on the premises using eucalyptus pilings. When these pilings next require replacement due to deterioration and normal wear and tear, Westar will provide or pay the Port for all replacement material necessary and the Port will furnish the labor and equipment to replace the pilings.

Port staff is proud of this maritime lease that signifies an expansion of one of the Port's key maritime customers. He acknowledged two of the co-owners of Westar - Mary McMillan and Wendy Morrow.

ACTION: Commissioner Lee moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

5. REAL ESTATE AND ASSET MANAGEMENT

A. Approval of Exclusive Right to Negotiate with Recycle Central, Inc. regarding property at Pier 80 (eastern foot of Cesar Chavez Boulevard - nee' Army Street). (Resolution No. 97-43)

Ms. Fei Tsen, Director of Real Estate and Asset Management, indicated that Recycle Central, Inc. is a subsidiary company of Norcal Waste Systems, Inc. They are proposing to lease approximately 105,000 sq.ft. of shed space in Transit Shed A and approximately 400,000 sq. ft. of paved yard at Pier 80 for recycling and maritime transhipment facility. In addition to 105,000 sq.ft. in Shed A, Recycle Central, in a second phase, desires to lease the remainder of Shed A should it become available, for a total of 202,000 sq.ft. of shed space. The exclusive right to negotiate is for a 6-month period. Recycle Central requires this amount of time to secure its permit and regulatory and environmental approval. The fee for this exclusive right to negotiate is $143,000 and is non-refundable.

San Francisco is required to meet a State mandate of achieving a 50 percent fill of recycling waste generated in this City. Norcal has a contract, through its subsidiaries, to collect the garbage and trash in the City. In order to meet the 50 percent State mandated goals, Norcal must expand its recycling facility and has established its subsidiary, Recycle Central, in order to consolidate its recycling activities. Recycle Central is proposing to lease Pier 80 as its primary facility for recycling waste paper and eventually consumer plastics and metal wastes. The recyclables will be sorted and compacted and loaded onto ocean shipping containers to be shipped to the Far East and other ports. Recycle Central has agreed to guarantee that by the end of the fourth year, a minimum of 3,000 TEU containers per year will be shipped by container ship, bulk carrier or barge. By the end of the sixth year, 7,500 TEU

containers per year will be shipped from the Port of San Francisco. If Recycle Central does not meet the minimum maritime commitment, it will be assessed a financial penalty of twice to three times the amount of wharfage and claimed rental fees that they would otherwise have paid. The amount of penalty will be tied to the level of deficiency. In summary, several attributes of this lease transaction should be noted:

1. Shed A is currently vacant, except for a portion of the shed which is used by the School District for storage. The lease of Shed A to Recycle Central will generate $858,000 in annual revenues for the first year and $1,290,000 for the second year.

2. Unlike other maritime tenants, Recycle Central will pay both the rent for the land facility and the dockage and wharfage fees for the use of the terminal. At minimum, the wharfage and dockage fees would generate an additional $168,000. The rent payments are adjusted to market rate every five years. Recycle Central will use Pier 80 for maritime container shipment. The balance of the pier, including approximately 170,000 sq.ft. of Shed D, which BREDA currently occupies, will be available in February 2020. There are 38 acres on the rest of the pier, which are currently vacant and available for other cargo container activities. The container terminal at Piers 94/96 is currently operating at 5% capacity. To the extent that there is an increase in the Port's cargo container activities, the Maritime Division anticipates that there is sufficient capacity at Piers 94/96 and the balance of Pier 80 to accommodate any anticipated increases. The Port retains the ability to move the entrance gate and scales at the expense of Recycle Central if the Port desires to separate their facility from the rest of Pier 80.

3. Recycle Central will generate 250 jobs of which 100 will be new jobs created for the operation at Pier 80. Recycle Central employs union labors and has agreed to use the Port's stevedores, longshoremen and clerks to handle all container shipping. They will invest approximately $32 million in fixtures and equipment and in structural and infrastructure improvements to the facility.

She acknowledged Don Gamblin's presence who will be presenting Recycle Central's plans. She added that Nic Dempsey, the Port's Commercial Property Manager, is also available to answer any questions.

Don Gamblin stated the Recycle Central project at Pier 80 will benefit all parties involved. The Port will be provided assistance in the revitalization of the Port maritime industry. It will receive a long-term maritime tenant at Pier 80, containerized cargo for direct vessel loading at Pier 80 and Shed A is returned to a maritime use. The City of San Francisco would get a world-class recycling facility and recycling capacity that would meet the State-mandated requirements. As well, San Franciscans would get cost efficiencies and local economic benefits.

Recycle Central is a unique project. He knows of no other recycling project or

facility located at a port or a pier, perhaps due to the fact that no other facility like Pier 80, with its historic warehouse and modern container terminal capacity, is available elsewhere or because prior to Recycle Central's proposal no one has recognized the beneficial union of materials recovery or recycling facility in a fully equipped maritime shipping terminal. Recycle Central's two 80-year old San Francisco sister companies, Sunset Scavenger and Golden Gate Disposal & Recycling, haul more than 1400 tons of recyclable materials-- materials that are commonly traded on the world market. With Recycle Central's project, these materials can be recovered and prepared for direct shipment through Pier 80 to destinations in the Far East. Their proposed initial use of 105,000 sq. ft. of Shed A and adjacent areas of Pier 80 will return Shed A to its historical use of the processing facility for consolidation and containerization. The Recycle Central facility will provide the means to maintain a consistent supply of materials for shipment, making Pier 80 attractive as a port call for direct vessel loading. At Recycle Central, glass metals, plastic and fiber will be ready for shipment. When fully developed at least 7500 TEUs will be made yearly for shipment. Over the next 36 months, Recycle Central will be working to bring the facility on line, assisted by their construction management company. They are confident that a concerted effort by local designers, engineers, suppliers and contractors will bring their facility on line as scheduled. He then acknowledged several representatives of their parent company and project team members.

Commissioner McCarthy inquired about the need for a 30-year lease. Mike Mahoney replied that the need for the 30-year lease is quite simply a financing mechanism that will enable their company to finance the substantial amount ($32 million) of capital improvements, to finance those needs through the California Pollution Control financing authority, which is the entity they will be using for the financing of the facility. Commissioner McCarthy inquired about the breakdown of $32 million that will be used. John Glaub indicated that the breakdown would be provided to the Port. Commissioner Lee inquired whether it would be mostly equipment or some improvements to the site. Mr. Glaub replied that the ratio is roughly 50-50, approximately $15-$16 million in actual construction cost (concrete, steel, piping, seismic upgrades, fire suppression system, drainage improvements, etc.) and the remainder would be for equipment. Commissioner Lee indicated that the reason for his inquiry is to justify the need of a 30-year lease. He is personally in favor of Norcal and Recycle Central as it will generate added revenues to the Port.

Mr. Gamblin provided the Commission a copy of the presentation. Commissioner Lee thanked staff, Norcal and Recycle Central for their hard work in getting the negotiations under way. He believed that this is a good move for the Port. It is an operation will be beneficial to both the Port and the City.

Mr. Don Moriel, Operating Officer of Norcal, stated that Port staff has been extremely difficult to work with but they were fair and worked diligently. They appreciated their efforts.

Commissioner Hardeman commented that this is a great job. He would be shocked if

the company is not doing two or three times the volume in five or ten years. This is a great project and this also has the Mayor's blessing and hopes the negotiations go well.

ACTION: Commissioner Lee moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

B. Approval of Exclusive Right to Negotiate with James V. Kelly on behalf of South Beach Resort Partners, a California Limited Liability Partnership, for lease of Mission Rock Resort Restaurant located at 817 Terry Francois Blvd. (Resolution No. 97-42)

Ms. Fei Tsen, Director of Real Estate and Asset Management, indicated that last year, the Port Commission authorized staff to issue a Request for Proposals for lease of the Mission Rock Resort restaurant located at Terry Francois Boulevard. The RFP was issued; three responsive proposals were received and evaluated by a panel consisting of two members from the Port staff and two members from outside the Port. Each proposal was read and analyzed separately by the panel members before oral interviews were held. The panel ranked the proposals in accordance with the predetermined criteria. South Beach Resort Partners (SBRP) received the highest score. The Panel concluded, and staff agreed, that SBRP proposed the best concept for the restaurant site, demonstrated the best restaurant experience, menu, design plans and improvement schedule, was the most likely to run a successful establishment and had the best financial backing. The managing general partner will be James Kelly, who owned and operated Pat O'Shea's for twenty-two years. The Mission Rock Restaurant site will be renovated and be brought up to code. Mr. Kelly and his partners requested an exclusive right to negotiate while they obtain the necessary permits and regulatory approvals before the lease agreement can be executed. A negotiation fee equal to the security deposit required under the lease has already been paid. Once the environmental review is completed and the parties have successfully negotiated the lease agreement, this transaction will be calendared for final approval by the Port Commission. The terms and conditions of the lease are as follows:

1. A new entity will be created, South Beach Resort Partners, a California Limited Liability Partnership. James Kelly will be Managing General Partner.

2. The premises consist of the restaurant building, deck area and paved land adjacent to the building.

3. The marina will not be a part of the premises. The Port, at this point, has not yet made a decision on the marina. If a decision is made to renovate the marina, SBRP will have the first right of refusal to reconstruct and operate the marina.

4. The site will be used for the operation of a public restaurant offering full service dining, casual dining, bar and banquet facilities, entertainment and retail space for sale of souvenir items.

The lease term is fifteen years with two five-year options. The base rent will be $118,656, adjusted annually by the CPI and will be adjusted to market rate at every exercise of the option period. The percentage rent will be 7% of gross receipts for full service dining and 9% for casual dining and retail/other sales with adjustments during the option period. The tenant is obligated to make certain improvements to the restaurant facility and to expend a minimum of $533,755 for these improvements. All plans and specifications will be approved in advance by the Port, BCDC and other required regulatory agencies. SBRP will be entitled to the base rent for six months at the beginning of the term for the construction of the improvements.

Under the proposed transaction, the Port will benefit from the revitalization of Mission Rock Resort facility and will maximize its revenue potential from the site.

Mr. Jim Kelly indicated that they would like to improve the site, bring everything up to code and make this a working person's option for and on the Port of San Francisco.

In response to Commissioner McCarthy's inquiry about the availability of banquet facilities, Mr. Kelly replied that the banquet facility will be located on the second floor of the restaurant.

Mr. Wong asked Mr. Kelly to discuss the project's time schedule. Mr. Kelly replied that the time frame for the procurement of permits, etc. will be a six-month period. Ms. Tsen added that the restaurant should be in operation a year from now; six months for the regulatory approval, prepare construction documents, go out to bid and six months for the actual construction.

Commissioner Lee inquired about the restaurant's maximum capacity. Mr. Kelly replied that it will be approximately 250. Commissioner Hardeman stated that the Commission is delighted to have someone with Mr. Kelly's background and good reputation.

ACTION: Commissioner McCarthy moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

C. Approval of Exclusive Right to Negotiate Agreement with Hornblower Yachts, Inc. for leases at Piers ½ and 3. (Resolution No. 97-41)

Ms. Fei Tsen, Director of Real Estate and Asset Management, indicated that Hornblower Yachts produces the third highest revenue among the existing maritime businesses at the Port. In the past year, Hornblower paid the Port approximately $510,000 in total revenue. The proposed lease transaction will consolidate Hornblower operations, which are now spread out over several piers to two piers (Pier ½ and 3) and it will consolidate six different month-to-month lease agreement that they have with the Port to two-term agreement. Hornblower is requesting a four-month exclusive right to negotiate while they receive their regulatory approvals. The non-refundable negotiation fee is $5,000. She mentioned that Kirk Bennett who has

been negotiating these leases will present the staff's analysis.

Kirk Bennett, Sr. Property Manager, indicated that Hornblower Yachts has been operating dining and yacht excursions since 1980, with an annual sales of over $6 million which is the second highest volume excursion operator on Port property. Hornblower produces the third highest volume to the Port among its existing maritime businesses and the 12th highest revenue among all businesses on Port property. It is also recognized as the highest volume dining excursion operator in the Western United States. Nonetheless, Hornblower is a month-to-month Port tenant and it only has two landing berths at Piers 31/33. The owner of Hornblower Yachts is also the owner of the Ferryboat Santa Rosa Partners (FSRP). The lease for the FSRP has a remaining term of approximately 15 years, expiring in October 2012. With the percentage overage rent, the total rent paid to the Port by Hornblower and FSRP currently amounts to approximately $509,255 per year.

In 1992, the Port Commission approved the Policy for Accommodating Additional Excursion Boats at the Port. This policy established rental guidelines for Port staff to negotiate excursion vessel leases, including percentage rents and allowed for the direct negotiation of leases with excursion operators. In accordance with the policy, Port staff conducted an outreach program in 1993 and 1995 to excursion operators but only Hornblower responded with interest for the central waterfront location.

The substructure at Pier 3 is significantly deteriorated and much of its shed structure has been removed. It is now used temporarily for general parking pursuant to BCDC Permit 3. Alternative uses for this pier are very limited because most changes of use would trigger seismic upgrade requirements, whose cost would be prohibitive due to the poor condition of the substructure.

The Downtown San Francisco Ferry Terminal project which will create two new public ferry landings will include relocating the existing floating and ramp from Pier ½. As a result, the existing finger pier and walkway at Pier ½ will no longer be needed as a public ferry landing site.

Hornblower proposes to consolidate its facilities and operations at Piers ½ and 3 to incorporate them with Santa Rosa and America One America's Cup Challenge compound. This will enable Hornblower to better serve its market which is based upon local business, conventions and bay area residents. This consolidation will also give an additional berthing capacity, accommodating a greater number and variety of excursion vessels and it would also provide operational efficiencies.

A fundamental component of this consolidation is berthing the California Hornblower at Pier ½ where it would be very visible and accessible from the Embarcadero. A second fundamental component would be the provision of parking at Pier 3 to support this maritime activity, replacing the parking Hornblower currently has at Pier 31/33. A third fundamental component is the ability to combine maritime excursions from Pier 3 with the banquet and meeting facilities on the Ferryboat Santa Rosa. A final fundamental component is the creation of an exciting venue for the America One

America's Cup challenge on Pier 3, which would depend upon the utilization of the Ferryboat Santa Rosa and the improvements to be made to the pier by Hornblower.

To achieve this consolidation, Hornblower has proposed that the Port grant Hornblower an Exclusive Right to Negotiate Agreement for a 126-day period to: (1) allow the parties to finalize all the terms and conditions of proposed leases with Hornblower for premises at Pier ½ and Pier 3 and (2) to allow Hornblower to undergo CEQA Review. Once the CEQA approval is obtained, and the parties have successfully negotiated said lease agreements, the transaction will be calendared for Port Commission consideration.

The proposed leases for Piers ½ and 3 constitute a single transaction but would take the form of a separate lease for each facility because the terms and conditions regarding the two facilities differ somewhat. The terms and conditions proposed in the lease include lease term expiring October 31, 2012 (same expiration date for Ferryboat Santa Rosa). At the completion of its landing facilities at Pier ½, Hornblower tenancy at Pier 31/33 will be terminated. From this proposed transaction, the Port will receive the following benefits:

1. It converts from a month-to-month tenancy to a longer term lease commitment the maritime business which produces the third highest revenue to the Port among its existing maritime businesses. The longer term will enable Hornblower to amortize the costs to improve its facilities, and to secure financing to acquire new vessels.

2. It will enable Hornblower to expand its business, producing more revenue to the Port. The rent to the Port generated by Hornblower and the FSRP is projected to increase by $300,000-$350,000, representing a 59-69% increase in revenues to the Port.

3. It creates a compound for San Francisco's America's One America's Cup challenge.

4. It protects the existing base rent from Pier 3. When the Waterfront Transportation Project is completed, the BCDC permit for Pier 3 requires that it no longer be used for general parking purposes, which currently constitutes 55% of the Port revenue from Pier 3.

5. The Pier ½ finger pier will be vacated when the Port relocates the public ferry landing to the Downtown San Francisco Ferry Terminal. The base rent currently being paid by Hornblower at Pier 3/133 will then be transferred to Pier ½, and the facility near Fisherman's Wharf would then be available to rent to a new user.

6. The proposed uses conform with the general goals stated in the Waterfront Plan and with the specific uses proposed in this plan for Piers ½ and 3.

Commissioner McCarthy asked for a clarification of the clause under maintenance and

repairs which states that neither party is responsible for pier substructure but either party may make pier substructure repairs. Mr. Bennett replied that Pier 3 is in bad shape and Hornblower has retained a consultant to take a look at the pier. There is an acknowledgment that this is an older pier. Either party can choose to continue the use of the pier. Should a part of the pier be determined no longer usable, the lease provides that the portion of the pier would be abandoned and the ramp would be proportionately reduced. Should it be determined that the pier cannot be used anymore and Hornblower cannot utilize it, they have the right to terminate the lease.

Andy Dolich, Marketing Manager for America One, stated that the Port has the premier sailing amphitheatre in the world. It is their dream to bring America's Cup to San Francisco in 2003. The America One Sailing Center at Pier 3 is a positive vision for everybody associated with Port operations, sailing enthusiast and the business community in California. With the Port Commission's and the Hornblower's cooperation, it is their vision to turn Pier 3 into the most positive sailing stadium in the United States. The Port has the ballpark at one end and Pier 39 at the end. The sailing center at Pier 3 is a wonderful second base. It is a wonderful venue that can be seen on the Bay Bridge. They are in full support to bring the America's Cup to the bay.

Commissioner McCarthy inquired if Pier 3 has ample space to accommodate their operation. Mr. Dolich replied that right now there is enough space. Other usages are now presently being discussed and will be done within the proper confines. Commissioner Hardeman stated that this is an exciting opportunity for the Port and added that he is a strong supporter of America's Cup.

ACTION: Commissioner McCarthy moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

6. FACILITIES & OPERATIONS

A. Approval to award Contract No. 2636, "Pier 48 Fire Damage Repair and Reconstruction." (Resolution No. 97-29)

Mr. Alex Lee, Director of Facilities and Operations, indicated that this contract is to repair Pier 48 due to the November 1996 fire. The fire damaged the wooden frame structure and caused substantial damage to the steel frames, walls and roof of Pier 48. The contract was advertised on January 1997. Four bids were received in March and the lowest responsive bidder was West Bay Builders, Inc./D. Stewart Thompson, Inc., a Joint Venture for a base bid of $2,529,768. HRC has reviewed and approved the bid. Staff requested the award of the base bid and an additive alternative #1 to West Bay Builders, Inc./D.Stewart Thompson, Inc. The additive alternative is for a fire door in one of the buildings. Staff also requested the Commission to authorize a 10% contingency for possible Type 1 contract modifications and authorize the Executive Director to accept the work after the project is completed.

ACTION: Commissioner Lee moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

B. Authorization to advertise for competitive bids for construction contracts for the new maintenance facility and other facility improvements at Pier 50. (Resolution No. 97-44)

Mr. Alex Lee, Director of Facilities and Operations, indicated that this item is to authorize staff to advertise for construction contracts related to the Maintenance Department and Pier 46B tenant relocation to Pier 50. The Maintenance staff and Port tenants are scheduled to move out of Pier 46B into Pier 50 by August 1, 1997. Port staff and outside consultant have developed the designs for the improvements at Pier 50. The improvements include a new roof for all four sheds, a covered parking structure for the Maintenance equipment, interior improvements, utility improvements, fire main, sprinkler and etc. for all four sheds. The Port would like to commence construction on Sheds A, B, and C as soon as possible to allow for the work to be completed before the rainy season. He added that it would be more efficient to have more than one contract to perform the construction improvements at Pier 50. The total amount of the improvements is estimated at $6.5 million.

ACTION: Commissioner Lee moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

C. Approval of First Amendment, authorizing additional services under Professional Services Contract No. SA 39760016, "New Maintenance Facility," with Kendall Young Associates/Beverly Prior Architects, a Joint Venture. (Resolution No. 97-36)

Mr. Alex Lee, Director of Facilities and Operations, indicated that this item is to request a first amendment to the Professional Services Contract. The contract was awarded to Kendall Young Associates/Beverly Prior, a Joint Venture. The Commission awarded a contract to KYA/BPA for the design of Pier 48. Subsequently a decision was made to relocate the maintenance facility to Pier 50. KYA/BPA's contract will be amended to redirect their original design services related to the New Maintenance Facility to Pier 50 instead of Pier 48. There is no cost impact for this change since the remaining contract balance of $235,118 will be used to fund this work. Most of the work done by KYA/BPA for Pier 48 can be redirected to Pier 50. In addition, staff also requests an additional amendment of $72,644 to KYA/BPA for design of interior repairs due to the fire damage at Pier 48. This money will be funded by the insurance company. The interior improvement at Pier 48 will include firewalls, fire doors, sprinkler systems, etc.

ACTION: Commissioner Lee moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

7. **PLANNING & DEVELOPMENT**

8. **FINANCE AND ADMINISTRATION**

9. **CONSENT CALENDAR**

10. **NEW BUSINESS / PUBLIC COMMENT**

There being no new business and/or public comments, Commissioner Hardeman adjourned the meeting at 5:11 p.m. in honor of Port employee, Todd Petersen.